NOTE

THE CIVIL FUNDS.

BY

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Calcutta:

PRINTED AT THE BENGAL SECRETARIAT PRESS.

1876.

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MADRAS FUND.

THE present position of the Civil Fund towards Government is not of recent origin, but the result of correspondence and transactions extending over more than 70 years. During the earlier stages of its history the Bengal Fund differed in several respects from those of Bombay and Madras, but in 1828 it entered into engagements with the Court of Directors on the same principle as that which governed the Company's connection with the Funds of the other Presidencies, and hence it seems necessary, for a proper understanding of the whole question, to give a short sketch of the Funds up to that time.

2. The Madras Fund was established in 1787—

(*a*) "For the special purpose of providing and securing a proper decent subsistence for the widows and children of such Civil Servants under the Presidency of Fort Saint George as might die in circumstances of indigence and distress; and also—

(*b*) "For the purpose of securing a decent subsistence for such of those Civil Servants as might labour under particular misfortunes, and as might chance not to be provided for by the Company."

3. The assets consisted of the subscriptions of the members of the service at a fixed annual rate, and an annual subscription of 500 pagodas from the Company, *the continuation of which depended on a proper application of the funds to the purposes of the original institution.* These subscriptions were at first allowed to accumulate for three years, and then one-third of the annual income, plus the interest on the accumulations, was applicable to the purposes of the Fund; the remaining two-thirds of the annual income were added year by year to the principal and allowed to accumulate.

4. An annual account of the Fund was to be laid before the Governor in Council and transmitted to the Court of Directors.

5. In 1799 the Company's annual contribution was increased from 500 to 3,700 pagodas. The reason of this increase was that in Madras the members of the service were entitled to certain half-yearly allowances, called "salary," on which subscriptions were payable. These allowances were abolished in 1799, but in lieu thereof the Government, and subsequently the Court of Directors, bound themselves by deed, without any condition, to pay the Fund 3,200 pagodas annually so long as the *Company existed.* The nature of the transaction is fully described in the following extract from the recital of the Madras Civil Fund deed, dated 1814:—

"And whereas, at the time of the date of the said deed poll, the Covenanted "Civil Servants of the said United Company under the said Presidency of Fort "Saint George were, by custom, entitled to receive certain half-yearly allow- "ances from the said United Company under the denomination of salary, out of "which allowances the parties to the said deed poll did thereby agree that their "respective shares of the contributions therein stipulated to be paid for raising "and continuing the said Fund should be deducted from, and paid out of, the "said allowances or salary. And the same contributions were paid out of the "said allowances until the Governor in Council of Fort Saint George aforesaid, "by a resolution bearing date the 10th day of March in the year of our Lord "1800, ordered such allowances to cease and terminate. But the then Governor "in Council of Fort Saint George aforesaid, being desirous of the continuance "of the said Fund, and judging it just and necessary to secure to the Covenanted "Servants of the said United Company under the said Presidency of Fort

"Saint George an equivalent allowance for the support of the said Fund in lieu "and stead of that which it had been deprived of by the abolition of the said "allowances, *did resolve and agree that the sum of* 3,200 *star pagodas* (*distinct and* "*exclusive of the aforesaid sum of* 500 *star pagodas*) *should annually be paid during* "*the continuance and existence of the said United Company*, by equal half-yearly "payments unto the Trustees for the time being of the said Fund, and which "last-mentioned resolution was afterwards confirmed and secured by a certain "instrument duly executed by the then Governor and the other Members of the "Council of Fort Saint George."

6. In 1800 several changes took place; *the former subscriptions were doubled*, the capital augmented and extended to meet, in addition to the benevolent objects of the original institution, a certain number of annuities on retirement. The benefits thereof were subject to a deduction for private income—

(*a*) Widows. £300 per annum till death or marriage. Each child in addition under six £30, six to ten £50, ten to nineteen £100, and at nineteen a donation of £300.

(*b*) Passage-money to England: each widow £200, each child £60.

(*c*) Sick Civil Servants £150 passage-money and £300 a year for three years.

7. Soon after the revised constitution was submitted to the Court of Directors, with a request that they should give an additional number of annuities. The request was not complied with, but in other respects the answer possesses importance, inasmuch as it shows that neither an increased subscription nor an additional benefit was looked on by the Directors as beyond the purposes of the Fund. The Directors said June 1802):—

"We are not at present aware of *any objections to the plan referred to in the* "*paragraphs for extending the object of the former* Civil Fund at your presidency "by an increased contribution of the subscribers for the purpose of enabling "a certain number of Civil Servants to retire from the Service on annuities by "seniority, except, indeed, it might be urged as an objection that there is not "any limitation as to the fortunes of such individuals as may retire to Europe "upon the proposed annuity, which, we think, would have been an improve-"ment of the plan, by rendering it more extensively useful to those who might "stand most in need of such an allowance.

"With respect to the suggestion that an addition to the number of annui-"tants, not limited to seniority, should be made at the expense of the Com-"pany, we do not deem it expedient to consent thereto, more especially as the "Company's donation towards the support of the Fund already amounts to near "£1,500 (fifteen hundred pounds) per annum, which you acknowledge to have "been formed on a liberal scale. The case of such of our servants as may "become disqualified, either by mental or bodily infirmities, for active service, "and who may not be entitled by their seniority to the proposed annuity, but "who may be desirous of retiring to their native country, will always be "considered by us with a humane attention to their situation and circum-"stances. Whenever any persons of this description shall appear upon your "list of servants out of employ, their respective cases must be submitted to our "consideration."

8. They then added—

"In the 57th paragraph of our letter in the Public Department of the 4th "March 1789, *we observe that the continuance of the Company's subscription* in "aid of the Civil Fund would depend upon a *proper application of the Fund for the* "*purposes of the institution;* and we at the same time directed that an annual "account thereof should be transmitted to us for our information. The "last statement which we have received of the amount and appropriation of "this Fund is dated February 1798, when the principal laid out in Company's "bonds at 8 and 12 per cent. amounted to pagodas (40,673) forty thousand "six hundred and seventy-three. We therefore repeat our directions that a "similar statement be annually transmitted to us."

9. But the attitude which the Court had up to this time assumed towards the Fund soon changed; the Directors speedily became aware of the advantages

accruing to them from it, and in 1805 they agreed to increase their annual contributions on condition that—

(*a*) Subscriptions should not be reduced;

(*b*) That they would receive annual statements of the Fund.

10. They said:—

"Having taken into consideration the several representations submitted "by your Government in favour of the Civil Fund, and being perfectly sensible "of the beneficial effects which, upon its present extended scale, it is calculated "to produce *both to the Company and the Service*, we have resolved to increase the "Company's subscription thereto in the sum of (£4,000) four thousand pounds, "which will make the total sum to be subscribed amount to (£5,480) five "thousand four hundred and eighty pounds per annum.

"Although this additional contribution on the part of the Company will "allow but of an increase of ten to the number of annuitants, we are never- "theless of opinion that the augmentation of the Fund will be found adequate "to the accomplishment of the object proposed by the institution.

"We wish it to be understood that the sum above is to be *annually* "subscribed upon the express condition that the private subscriptions of indi- "viduals be *not at any future period diminished*, nor the annuitants increased "beyond the number proposed in your letter of the 9th October 1800, without "our previous sanction.

"We further direct that a *full and particular statement of* the Fund be "*annually transmitted* to us for our information."

11. The calculations of the Fund had been based on the suppositions—

(*a*) Annuities were to be given up to 1814 only.

(*b*) The receipt of 8 per cent. interest and exchange at 8*s*. per pagoda. And in 1811, when the rate of interest on public securities was reduced, it was found that the assets of the Fund were not sufficient to meet the liabilities. The Managers therefore determined to increase the subscriptions and constitute a new fund, which would take over the old fund, and to ask from the Directors, in lieu of certain considerations, a fixed rate of interest and exchange, so as to establish the fund on a basis little liable to be affected by future contingencies. The letter, after referring to the causes of the depressed state of the Fund, ran as follows:—

"The events to which we allude are the reduction of Indian interest to "6 per cent. and the fall of the rate of exchange for remittance to England so "considerably below par.

"A reference to the regulations forwarded to your Honorable Court, the "10th July 1800, will show that a continuation of the objects of the Fund as "at that time established depended upon the receipt of an interest of 8 per cent. "per annum upon *the accumulating capital* and a remittance of 8*s*. per pagoda "for such sums as might be required to cover the payments in England.

"Your Honorable Court were pleased not only *fully to approve* of the "regulations then submitted, but most graciously to increase their effect by the "addition of ten annuitants to the former contribution of the Company, and to "what the Fund could from its own resources afford to grant.

"It did not occur to your Honorable Court that either the rates of interest "or exchange which were assumed were higher than what the then state of the "times fully warranted; and when those rates were confirmed by the approba- "tion of your Honorable Court, the Service was induced to attach to them "an *idea of stability which perhaps they might* not otherwise have acquired, and "to proceed in the appropriation of the accumulating funds without adverting "to the contingency which has now occurred.

"Thus situated, we humbly solicit from your Honorable Court relief, as "we sincerely hope it will not be deemed presumptuous to request, and "which, if granted, will, we have sanguine hopes, aided by such sacrifices as "we have every reason to believe the Service are prepared to make, enable us "to establish the Madras Civil Fund upon a basis *little liable to be affected by* "*future contingencies.*"

12. They then go on to state what they require:—

"The relief which we now presume to solicit from your Honorable "Court is—

"*First*, that you will be graciously pleased to permit the Government to "receive the *entire capital* of the Civil Fund as it stood on the 1st May, as *also* "*its subsequent subscriptions and interest* on account current at an interest of 8 "per cent. on *receipts and payments to be adjusted annually.*

"*Secondly*, that your Honorable Court will be graciously pleased to pay to "the agents of the Fund in England, on the 1st July and 31st December *of* "*each year*, such sums as may be required for the payments there on account of "the Fund; the amount, when advised from England, to be reimbursed to "Government by the Trustees of the Fund in India at the exchange *of* 8 *shillings* "*per pagoda, with interest at* 8 *per cent. per annum*, from the day on which "such sum shall have been paid in London to that on which it shall be reim-"bursed here."

13. And then comes the consideration:—

"The Service will consider this relief from your Honorable Court to the "Civil Fund, in its present embarrassment, as an act of signal grace and "favour, and we trust we shall not be considered as endeavouring to diminish "the extent of the favour by humbly submitting to your Honorable Court a "few circumstances which we conceive may with propriety be urged in support "of our request—

"1*st*.—Although the operation of the proposed account current will leave "the debt due by the Company to the Civil Fund the same in amount as if "issued in bonds, it will be *a debt more in the nature of a perpetual loan*, as the "Service would no doubt be prepared to agree that the principal of the debt "should *not be demandable except for the purposes of the Fund* (an event very "unlikely to occur), *and a large amount would in consequence* be excluded from "the market and prevented from interfering with the financial operations of "Government, thereby diminishing the source of competition.

"2*nd*.—As regards the exchange. It will, no doubt, occur to your Honor-"able Court that so long as the treasuries of India shall continue shut against "the receipt of money for bills upon your Honorable Court, although the loss "between 8*s*. per pagoda and the rate at which bills must be purchased will be "incurred by the Fund, which will have to purchase bills in the market, yet "that no positive loss will be sustained by the Honorable Company from the "payment alluded to at 8*s*. per pagoda; and we have further to urge that the "interest upon the present funded capital of the Civil Fund, which interest "amounts to about £6,500 per annum, is remittable at an exchange of 8*s*. 6*d*. "per pagoda, and it follows that the difference between that and 8*s*. *will be a* "*positive gain to the Company, by the reduction of* 6*d*. *per pagoda* upon the remit-"tance to England of the proportion of the sum required.

"It would be unreasonable, in soliciting this relief from your Honorable "Court, that the Service should retain a right to participate *in any increase,* "*either of interest or exchange, which might hereafter arise, nor is such* our expec-"tation in the proposed arrangements, but that the rates of interest and "exchange shall under all contingencies remain as above specified.

"This relinquishment of all future advantages from interest or exchange "cannot, we are aware, be considered, in the present situation of Indian finance, "as any sacrifice on the part of the service; yet, as included in the list of "future possibilities, we have considered it fair to state it, however remote the "contingency."

14. The Directors acceded to this application, and wrote in 1813:—

"*Paragraph* 2.—Having considered a letter stating that the Madras Civil "Servants have requested them to give such explanation as may be necessary "in regard to their application before us for assistance to the Civil Fund at "your Presidency, viz. that the Company will receive *the entire capital* of the "Fund into their treasury, *opening an account current with the Trustees of receipts* "*and payments at* 8 *per cent. per annum*, representing that the loss by reduction "of interest which will otherwise be sustained must be about pagodas 6,000, or

"£2,400, and that unless relieved by us the annuity list must in consequence "ever remain at 28 (its present number) instead of 33, its maximum, which it was "to have reached in the year 1814—that the diminution of the rate of interest "on money in India, so desirable to the Company, will increase the charitable "demands on the Fund, and must *very considerably prolong the residence in India "of the Civil Servants* of Madras, find they have no other means of acquiring an "honorable *competency but by the accumulation of interest on savings from these "salaries;* stating also the extensive benefit that has already been derived from "this laudable institution, and its inability to keep up its payments; expressing "therefore their reliance that we will afford support to the extent of the petition, "by which, in their opinion, we shall uphold public principle and the true "interest of the Company; further, requesting that we will continue the "exchange on England admitted on the first establishment of the Fund at 8*s.* "per pagoda, and that we will issue such sums at Midsummer and Christmas "to the agents in this country as they may require for the *annual demands on the "Fund*, taking their receipts for repayment to the Company at Madras on "demand with interest; observing that their additional proposition will entail "no loss on the Company, and but the small inconvenience of the *first payment "in advance at interest*, have resolved that—

"The Madras Civil Fund be allowed £2,000 per annum while the Indian "interest remains at 6 per cent., such allowance to commence from the date of "the reduction of interest, viz. 1st May 1813; that the above allowance be "reduced to £1,000 per annum *if ever the rate of interest* shall be raised to 7 per "cent.;* and that it entirely cease if the interest should ultimately advance to "8 *per cent.* On either of these contingencies, however, the Trustees to be "allowed on the Civil Fund capital the highest rate of interest granted by the "Government of India.

"We have further agreed that there be paid to the Agents in England "at Christmas and Midsummer of *each year such* sums as may be required for "their disbursements in this country on account of the Civil Fund upon their "receipts, bearing 9 per cent. interest upon the date of each advance until "repaid upon demand by the Trustees at Madras to the Government of Fort "Saint George *at* 8*s. per star pagoda.*"

15. In short, the Service asked for—

(*a*) Interest at 8 per cent. on the accumulated capital and exchange at 8*s.* per pagoda permanently;

and they offered in consideration—

(*a*) To give the Directors a *perpetual* loan of the Fund money, incapable of being called in save for Fund purposes; and

(*b*) The difference between 8*s.* 6*d.* and 8*s.* exchange on part of the money remitted to Europe.

16. That this was the meaning attached to it by the members of the Service is evident from the nature of the evils they wished to avoid, the consideration they offered, the answer of the Directors, and also from the terms of the deed entered into by the members of the Service in 1814 in pursuance of the arrangement made with the Company, in which they say:—

"That for the support and accumulation of the Charity Branch of the "said Fund the following appropriations and payments shall be, and are hereby "declared and agreed to be, made to it; that is to say—

"*First.*—The said sum of 216,277 star pagodas 22 fanams and 38 cash, "being as aforesaid five-eighths of the whole of the joint capital now belonging "to the Fund.

"*Secondly.*—The interest that shall arise and be received on the said last-"mentioned sum and *on its future accumulations.*

"*Thirdly.*—The said several sums of 500 pagodas and 3,200 pagodas "*annually contributed* and paid by the said United Company as hereinbefore is "recited and mentioned." * * * *

* Explained in the despatch of 1814 to mean that it was intended to make good the difference between 8 per cent. and the current rate of Company's interest in India on its capital for the time being, and in no case *hereafter* should the Fund be allowed to draw more than it would have received had the capital remained *vested in Company's 8 per cent. paper.*

17. Up to this time the Fund was a voluntary association, and so remained till 1823, when the Directors, anxious, as they said, for the security of the members of the Service, but apparently more anxious to avoid a charge on their revenues, determined on making it compulsory to subscribe to the Civil Fund. They said:—

"The case of Mr. Willock is of a nature to show clearly the necessity "of a general provision for contingencies of a similar nature, and for other cases "of distress which, from the neglect of some of our Civil Servants to subscribe "to the Civil Funds of their respective presidencies, became subjects of appeals "to our benevolence, and *eventually a charge on our finances;* and you have very "properly drawn our attention to the expediency of our making it henceforward "a condition with all our Civil Servants, on their first appointment as writers, "that they shall become subscribers to the civil funds and continue their "subscriptions throughout their periods of service, with a view to their own "security and *to our relief from unnecessary charge.*

"After very mature deliberation we have determined to adopt your "suggestion, and shall henceforth insert a stipulation in the covenants of all our "Civil Servants accordingly."

18. It appears from the history of all three funds that from an early period attempts were made to get rid of the property clause; nor did the members of the Service look on it as any deviation from the original purposes of the Fund. In 1830 a scheme of this kind was matured in Madras for materially increasing the benefits of the Fund, and the provisions were forwarded to the Government for submission to the Court of Directors. The Managers said:—

"The object of one of these sets of rules is to secure to daughters in indigent "circumstances the same pecuniary aid after the age of nineteen until marriage "or death which is now granted to them until they attain that age; and that the "object of the other set is to grant annuities of £300 to widows without reference "to income from other sources, which income, under the rules hitherto acted "on, is taken into account, precluding, when it amounts to £300 per annum, "all assistance from the Fund, and when it is less being only made up to that "sum.

"Although all has been done that was requisite in order to make them "valid, so far as the will of subscribers is concerned, yet as they contain "provisions for raising *certain additional contributions* for the purpose of securing "the object in view, and as the Honorable Company afford essential support to "the Fund, not merely by a liberal annual donation, but also by the rate of "*interest* allowed on *its capital*, it is considered necessary to obtain the sanction "of the Right Honorable the Governor in Council before they can be brought "into operation."

19. And they go on to show that it would not cost any additional expense to the State:—

"The Governor in Council will observe that it is intended that Civil "Servants, who have already retired either with annuities from the Fund or "with established claims to succeed to such annuities, shall be admitted to "become parties to the new rules. This has been considered just and necessary, "because the means of effecting the general object in view are to be derived "partly from the *surplus income which the Fund at present yields.* This indeed "is the case with respect to the proposed measure for daughters as well as that "for widows; and it is a consideration of some importance with *reference to the* "*effect* which these measures, if carried into execution, will have on the amount "of the annual charge *of the Fund upon the Honorable Company.* The Fund has "at *present a large surplus income; and if this, instead of being applied to the* "*purposes now in view, were allowed to go on accumulating indefinitely at compound* "*interest*, it cannot be doubted that the charge of interest would grow to "be heavier than what it will be rendered by the additional contributions "which it is intended to raise as aids towards the support of an additional "expenditure."

20. At first the Directors declined to interfere. They objected, not that this was a departure from the original objects, nor that the subscribers were

not entitled to interest on the accumulating capital, but that their interference was unnecessary. They said—

"While we approve of your being kept informed by the Trustees *of any* "*alterations* adopted in the rules of the Civil Fund at your presidency, we do "not see it necessary that your sanction or our own should be given to them, as "the Trustees continue alone responsible for the management of that branch of "the original institution."

21. But the Managers of the Fund were anxious to get 8 per cent. on the additional subscriptions. They again addressed the Government, asking that the Government officers might be directed to collect the increased subscription of 1 per cent. in India, and the Directors requested to do the same in England. With reference to the stability of the Fund, they said :—

"We beg leave to state, with reference to your letter dated the 20th May "1831, that the Trustees made calculations for the purpose of ascertaining the "sufficiency of the means proposed for carrying the plan into effect, without "interfering *with the surplus capital of the Charity Branch of the Fund on its* "*present footing*, the results of which were considered by them and by the "general meeting to be satisfactory."

22. The Madras Government approved and allowed 8 per cent. as a temporary measure, but the Directors refused to accede to this request, on the ground that the proposition was an essential departure from the principle on which the Fund had been hitherto conducted, and that it "behoved them to take care that the security of original objects was not endangered by uniting with them any others of a different character:" in any case they refused to give more than 4 per cent. on the additional subscriptions. The Managers however persevered, and again addressed the Government. They urged in behalf of the scheme for girls—

"The scheme for girls has been in operation for a long period, and no "objection has until now been offered against it by the Honorable Court. "The *expense attending* it will not bear heavily on the Honorable Court, in "consequence of an equivalent to the sum paid by a parent being made good by "the Charity Branch, *which therefore decreases the assets of that branch, upon which* "*the Honorable Court allow* 8 *per cent. interest*;" and ultimately the Court withdrew its objection as regards this portion of the proposal, remarking—

"We are disposed, under all the circumstances, to give effect to your "recommendation by relaxing our former orders so far as to allow 8 per cent. "interest on the extra subscriptions raised to secure a provision for the "daughters of members of the Fund until marriage or death, as provided by "the subsidiary rules passed in the year 1830."

BOMBAY FUND.

THE Bombay Fund was established on the 16th of April 1804 after the model of the Madras and Bengal Funds, and it was resolved that—

(*a*) Memberships be purely voluntary; that—

(*b*) The members subscribe 5 per cent. on their salaries from 1803 to 1807, and 2 per cent. after this date; the percentage to be varied according to the requirements of the Fund; that—

(*c*) Subject to a deduction for property left by a subscriber at his death, his widow and children receive—widows £300 a year, each child an allowance varying from £30 to £100 a year, plus a gift of £500 on marriage in the case of females and on settlement in a profession in the case of boys.

2. The members of the Service applied for the aid and patronage of the Court of Directors, and were granted an "annual subscription" of £2,800, but without any conditions. In this state the Fund continued until 1813, when the Managers, hearing of the letter addressed by their Madras brethren to the Court of Directors, followed their example and asked for the same concessions, offering the same consideration. They said—

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"A just sense of the liberal patronage which the Bombay Civil Fund "has already experienced from your Honorable Court renders us extremely "reluctant again to intrude ourselves on your time, but the subject of our "present address is of such moment to the interests of our Fund that we hope "to be excused for this call upon your attention, which we are happy to think "can be but of short duration, *from our having received from the Madras Civil "Fund Committee a copy of their memorial to your Honorable Court of the 17th June "last.*

"The sentiments expressed in the Madras memorial regarding the reduc- "tion of interest and the exchange between England and India are quite "applicable to our situation, and we feel that from the able, clear, and "respectful terms in which they are conveyed to your Honorable Court, we need "only, on these points, acquiesce in their propriety; and being equally sensible "with the members of the Madras Fund of the obligations conferred by your "former liberality, we have only to express a hope that, similarly with that "institution, we may participate in any relief your Honorable Court may think "proper to afford.

"On the 28th January 1812 we transferred our stock, amounting to "Rs. 5,06,300, to the Bengal loan—the only one in which it could be placed "under the security of the Honorable Company—at an exchange of 8 per cent., "thereby involving us in a loss of the sum of Rs. 37,504, which exceeds one "year and a half of the Honorable Court's generous donation. We respectfully "solicit your Honorable Court will be pleased to concede to us a remission of this "exchange, which has caused so considerable a diminution of our capital. Nor "is this the only one we suffer for while our funds remain in Bengal, they are "subject to the further loss of a commission to the public officers of Govern- "ment whom we are necessitated to employ as agents."

3. This memorial was favourably received by the Bombay Government, and forwarded to the Court of Directors under cover of a despatch, the most important portion of which ran as follows:—

"We have the honor to submit to the favourable consideration of your "Honorable Court a memorial from the Committee of Managers of the Bombay

"Civil Fund, praying for the continuance *of interest at the rate of* 8 *per cent.* "*per annum on their accumulating capital;* that bills may be granted to them on "the Court for such remittances as they may have occasion to make on "account of their Fund at the *usual rate of exchange*; and for a remission of "the exchange payable on their subscriptions to the Bengal loan, grounding "their application for these indulgences on the grounds set forth in the memo- "rial already transmitted to your Honorable Court by the Managers of the "institution established at Fort Saint George, under date the 19th June last, "which, we conceive, are equally applicable to this presidency."

4. There can therefore be no doubt as to the nature of the application, nor the amount on which the interest was demanded: it was on "*their accumulating capital.*"

5. The Court of Directors responded to the application, and the same arrangements were entered into as with the Madras members of the Service. The Directors said:—

"We have considered the memorial of the Committee of Managers of the "Bombay Civil Fund, praying to be allowed the same *rate of interest we might* "*concede to the Civil Fund at Madras*, in consequence of their application to us "for that purpose; and as the motives which induced our resolution in favour "of the latter Fund are equally applicable to that at your presidency, we have "resolved that the same benefit shall attach to each Fund.

"In your calculations to produce this result, you will carefully observe it "is our intention *to make up to the Fund the sum it would otherwise annually lose* "in consequence of the reduction in the rate of *interest from* 8 *to* 6 *per cent.* "With this view the original capital of Bombay (Rs. 5,06,300) will revert "to a 6 per cent. debt at Bombay, by which the alleged loss of exchange and "the charge for management will be prevented.

"In respect to advances which may be required from us in England for "the purpose of the Fund, we have resolved that you bring them to account "*at 2s. 3d. the Bombay rupee.*

"Should any other question arise with respect to our intentions, you will "be guided by our instructions to Madras in this department, under dates "the 29th January 1813 and 27th July 1814, copies of which we send you "herewith."

6. On receipt of this despatch the Managers lost no time in attempting to consolidate their capital, and in December 1815 they addressed the Bombay Government on the subject. They said:—

"We have the honor to enclose a statement showing the amount of the "difference between 6 and 8 per cent. since the 3rd of September 1810, when "the higher rate was discontinued, and respectfully, referring to the third "paragraph of the letter to Madras, of the 27th July 1814, in which the "Honorable Court state that it was intended by their orders of January 1813 to "'make good to that laudable institution the difference between 8 per cent. "'and the current rate of Company's interest on its capital for the time being,' "we request that the Civil Fund may receive credit for this arrear of interest, "and *that together with it the amount of our deposit in the treasury and of the* "*Bengal promissory notes in Bombay rupees, may be consolidated in a Bombay debt* "on the terms which our honorable employers so liberally conceded to the "constitution."

7. A careful perusal of these letters clearly shows that the members of the Service made their proposal in terms which admit of no doubtful interpretation. They asked for, and were understood to ask for, 8 per cent. on the *accumulating capital*, and that this proposal was accepted in the spirit in which it was made is clear from the answer of the Court of Directors and the manner in which the Fund's assets were consolidated.

8. In 1811-12 the Managers of the Bombay Fund had invested a portion of their capital in the Bengal 6 per cent. loan of that year: one of the privileges granted to holders of that loan was they could remit the interest to England at 2*s.* 6*d.* per Bombay rupee. In 1821, understanding that this loan would shortly be discharged, they wished to provide against the loss of the disadvantageous

exchange by disposing of the Bengal certificate of the new loan at a premium, and applied to the Bombay Government to sanction the arrangement:

"In making this application to your Honorable Board, it is right for us to "state that the discharge of the note in question will deprive the Civil Fund of "the advantageous remittance of 2*s.* 6*d.* per Bombay rupee, of which it has "hitherto had the benefit, and which was the original object of the Trustees in "investing the money in the loan of 1811-12, and will have the effect of "reducing its annual means in the sum of Bombay Rs. 945-0-32 reas.

"To meet this loss we are desirous of disposing of the Bengal certificate "that will be received in exchange for the present note, which we are able to "do at a premium of 3 per cent., and without risk, and to pay the amount of "such sale into the Honorable Company's treasury as already mentioned, thereby "obtaining for the Fund an addition to its capital of Rs. 15,189, and an annual "increase of interest to the extent of Rs. 307-0-96 reas without any additional "expense to Government, instead of subjecting the institution to the diminu-"tion of Rs. 945-0-32, already referred to in our present address."

9. The Government had been told that it must be guided in deciding questions that might arise by the correspondence* which had passed between the Madras Fund and the Directors. It did so in the present case, and, considering that the terms of the engagement did not warrant the application, refused to entertain it. The letter conveying this decision to the Bombay Fund is most important. It contains a complete exposition of the terms of the engagement entered into between the Funds and the Directors, valuable not only for its clearness and completeness, but also from the circumstance that it is an official interpretation of the agreement immediately after it had been entered into. It is as follows:—

* See p. 5.

"Gentlemen,—I am directed by the Honorable the Governor in Council to "acknowledge the receipt of your letter dated the 7th of July, requesting "that the Sub-Treasurer might be authorized to receive this Government note "No. 6195 of 4659, Bombay rupees five lakhs six thousand and three hundred, "belonging to the Civil Fund in transfer to the Bengal loan, opened on the "1st of May, and subsequently to pass to the credit of the Fund with Govern-"ment such sum as might be tendered by your Secretary and Accountant as "proceeds thereof, which might be taken at Bombay rupees five lakhs twenty-"one thousand one hundred and eighty-nine.

"2. To enable the Governor in Council to determine how far he was at "liberty, consistently with the orders of the Honorable Court, to comply with "your application, he has had reference to the correspondence between the "Government Fund Committee and the Honorable Court, which led to the "indulgence of 8 *per cent. being granted to the capital of the Fund*, and I have the "honor to communicate to you the result.

"3. It will appear from those proceedings that the Committee for the "Civil Fund addressed a memorial to the Honorable the Court of Directors, "stating—

"(1) That you had been obliged to vest the money in a Bengal loan, by which you lost Rs. 37,000 on the exchange;

"(2) That you were also obliged to pay a percentage to the public officers in Bengal for acting as your agents;

"(3) That the interest was reduced from 8 to 6 per cent.; and

"(4) That the rate of your remittances to Europe had also become unfavourable;

"grounding your application for relief on the sentiments expressed in the "Madras memorial regarding the reduction of interest and the exchange "between England and India.

"4. To that application the Honorable the Court of Directors replied—

"(1) That they would indemnify the Fund from the loss by exchange of thirty-seven thousand rupees;

"(2) That they would allow the money to be transferred to Bombay, where no agency was required;

"(3) That they would secure 8 *per cent. in perpetuity to the Fund;* and

"(4) That they established 2*s.* 3*d.* *the Bombay rupee as the permanent rate of remittance to Europe.*

"5. *Those concessions were founded on the considerations stated in the Madras* " *memorial*, by which the debt due by the Company to the Civil Fund was to " remain the same as if issued in bond, but more in the nature of a *perpetual* " loan, not demandable *except for the purposes of the Fund*, and excluded from " the market and from the financial operations of Government, thereby " diminishing the source of competition; that the Civil Service relinquished all " right to participate *in any increase of interest and exchange which might hereafter* " *arise, and all future advantages from those sources.*

"6. On these grounds, therefore, the Governor in Council is precluded " from complying with your proposal, but will consent to any mode of transfer "necessary to cover the Fund from loss, but to none by *which it will gain a* " *profit.*

"7. With respect to your representation that the discharge of your note " will deprive the Fund of the *advantageous remittance of* 2*s.* 6*d.* *the Bombay rupee*, " and reduce its annual means in the sum of Rs. 945 by the exchange to " England, I am directed to observe that the Governor in Council conceives " that the Honorable Court does not intend to afford you any relief unless you " receive a less favourable rate of exchange than 2*s.* 3*d.* the rupee."

10. This may be looked on as—

(*a*) An interpretation of Madras arrangement.

(*b*) A contract subject to ratification by Court of Directors, and ratified by receiving money.

(*c*) An independent contract of the Bombay Government *voidable* only by Directors, and of which they had notice.

11. This official interpretation of the engagements entered into by the Fund and Directors must have been forwarded in the usual course to the Directors. Subsequently the subscriptions of the Service were renewed on this footing, and whether it is looked on as an interpretation of the previous arrangement,—an interpretation, too, of which the Directors had notice,—or a new arrangement subsequently ratified by accepting the subscriptions of the Service, or simply as an interpretation by Government, the agent for the Directors, on which the members of the Service acted, paid away money and incurred liabilities, it is binding on Government Moreover, it has never been repudiated until the present time.

12. In 1824 the Directors approved of a proposal received from the Supreme Government regarding the establishment of an Annuity Fund in Bengal, and offered the members of the Bombay Service the same advantages on certain conditions. They said :—

" We are desirous that advantages in respect of retirement should be provided " for the Civil Servants upon your establishment of equal extent with those " which we have sanctioned for Bengal. With this view we forward to you " a number in the packet copy of our despatch to the Supreme Government " regarding the institution of an Annuity Fund in Bengal, together with a copy " of the regulations under which our sanction has been given to it, and we desire " that you will communicate these papers to the Managers of the Civil Fund at " your presidency, and inform them that if the subscribers to that institution effect " such modifications and alterations of the regulations of the Annuity Branch as " may make them correspond in principle with the regulations which we have " prescribed for the Bengal Fund, and fix their rate of subscription to that branch " *at a rate not lower than that which we have fixed for the Bengal servants*, we shall " be prepared to make the necessary addition to the Company's contribution."

13. Some correspondence ensued, and ultimately in 1826 the Directors, in a letter which throws much light on their position towards the Fund, declared the conditions on which only they would be prepared to assist in promoting the annuity scheme. The following are the more important paragraphs of their letter:—

" The Civil Fund at your presidency may be divided into two branches— " the Compassionate Branch and Annuity Branch. The aggregate capital of

" both branches appears to have amounted on the 30th of April 1825 to " Rs. 11,78,035.

" The Trustees, in view to giving effect to the new annuity plan, have " deemed it expedient to divide the capital in the proportion of Rs. 6,39,702 to " the Charitable Branch and Rs. 5,33,333 to the Annuity Branch.

" The contribution of subscribers to both branches is according to a scale " proportioned to their rank and emoluments. Our contribution is £2,800 per " annum, in addition to which we allow interest upon the *balance of the Fund at* " *the rate of* 8 *per cent. per annum.*

" The Fund provides for the grant of such number of annuities of £400 " as from time to time it may be able to maintain to servants who had served " 12 years, including three years' absence, and servants having completed that " term may quit the service, return to England, and be deemed entitled to " annuities in order of seniority.

" Under these arrangements there are now on the Fund 18 annuitants at " £400 each, and there are 13 expectants of annuities of the same amount.

" It is proposed that the whole of these claims shall be transferred to " the new Annuity Fund, and that that Fund be credited with the before- " mentioned capital of Rs. 5,33,333.

" It is also proposed that our contribution of £2,800 per annum shall be " credited wholly to the Annuity Branch so long as any of the old annuitants " shall remain, and that the Charity Branch be credited with the difference " between 8 and 6 per cent. interest on the Annuity Branch capital of " Rs. 5,33,333, as well as with interest at 8 per cent. on its own capital.

" We desire that you will cause it to be distinctly understood that, before " our consent is given to the establishment of the new Annuity Fund at your " presidency, we shall expect that our Civil Servants engage to subscribe " permanently to the *Charitable Branch* of the objects embraced by the Civil " Fund *at a rate not less than* 1 *per cent. per annum upon official incomes;* and as " a less capital will then suffice for the purposes of that branch, that a propor- " tionate addition be made to the amount of capital to be transferred to the " new Annuity Fund to meet the charge of the annuities of £400 which are " proposed to be borne upon that Fund.

" *We shall adhere to our determination, already made known to our servants, of* " *refusing all relief to the families of Civil Servants dying in reduced circumstances who* " *shall not became subscribers to the Fund for the charitable purposes in question.*

" We further desire that we may be furnished annually with a report of " the state of the Charity Fund, in order that we may know how far it may be " necessary that the subscription should be modified, it being our positive " determination to require that the stability and security of that useful institu- " tion should be upheld by the contributions of our servants."

14. It seems very difficult to reconcile this letter with the modern theory, which assumes it was always begging on the part of the Service, giving on the part of the Directors. In it the members of the Service are told that in addition to the considerations referred to in paragraph 9 they must agree to tax themselves 1 per cent. on their salaries, and non-subscribers were informed that their families would have no claims on the Directors: future members of the Service were more stringently dealt with by a clause inserted in their covenants.

15. The members of the Service agreed to subscribe the necessary 1 per cent., and in 1829, under the directions of the Directors, Rs. 6,39,702 at 8 per cent. interest were retained in the Charity Branch; the remainder of the capital, Rs. 5,33,333, was transferred to the Annuity Branch.

16. In May 1826 Mr. Farish, a member of the Bombay Service, brought forward certain proposals for making the allowances of widows and children independent of private property. They were as follows:—

" (1) Widows and children to receive *full pension in all cases.*

" (2) Annuitants desiring to secure this advantage to subscribe at 1 per cent. above this 1 per cent. referred to by the Court of Directors.

" (3) A widow's pension not to cease on re-marriage.

" (4) The Indian pension of Rs. 300 a month not in future to be granted."

17. These proposals were carried on 8th May 1826, but their operation was postponed until the receipt of the reply from the Court of Directors on the dispute that had arisen as to the distribution of the capital of the old Fund, and it was not till 1829 that the distribution proposed by the Trustees was at last assented to. The letter of Government is dated the 17th December 1829, and at the meeting of the 5th January 1830 the rules were declared in operation. In the following September the Trustees, referring to the difficulty they experienced in collecting the subscriptions, requested that the Government would direct its audit officers to realize them. This request was acceded to, and since then the subscriptions have been collected by Government.

18. Up to 1840 the original and additional subscriptions were allowed to bear the same rate of interest, viz. 8 per cent., but in 1842 the Directors objected. They said:—

" We find that you allow 8 per cent. interest upon the *whole of the balance* " *and subscriptions* of the Provident Branch of the Bombay Civil Fund. To this " we object, as part of those subscriptions consists *of the increased rates* levied " under the revised regulations (which we have not recognized) for extending " advantages to the *widows and children of the members of the Fund.*

" We must therefore decline to allow a higher rate of interest than 4 per " cent. upon *the new subscriptions* raised for securing to widows an annuity of " £300, *without reference* to property.

" This decision is in strict accordance with our refusal to sanction a higher " rate of interest upon the subscriptions to the Madras Civil Fund for a similar " object."

19. Against this decision the Trustees remonstrated, but without much success. They only succeeded in preventing the orders having retrospective effect. The Directors' letter conveying their final decision is dated 1843, and can only be understood on the supposition that even then it was acknowledged as settled that they held the Fund's money at 8 per cent. in perpetuity: indeed their reason for refusing a high rate of interest on the additional subscriptions was that the interest was payable for an indefinite time. The following are its most important paragraphs:—

" As the accounts of the Civil Fund for the year 1841-42 had been closed " by the Trustees prior to the receipt of our orders dated 30th March 1842, we " shall not withhold our consent from the sanction you gave to allow 8 per " cent. interest on the whole subscriptions of the Provident Branch of the Fund " in that year. But beyond this period our directions for limiting the interest " to 4 per cent. on the subscriptions in aid of the new scheme for widows " are to be rigidly adhered to.

" We have not countenanced the new scheme at either presidency for " allowing annuities to the widows of the Civil Service without reference to " their *pecuniary condition*, and we must therefore decline to grant any aid in " support of it.

" With respect to the point urged by the Trustees, that interest at 5 per " cent. should be allowed on subscriptions for this object, because a new loan is " open at that rate, *we cannot admit that money borrowed for a temporary purpose at* " *that rate of interest forms any ground for granting it upon funds held by the Company* " *for indefinite periods.* If the Trustees find that they can at any time obtain a " higher rate than 4 per cent. interest upon the capital raised for the object " already specified in the public loans, they are not debarred from such " investment."

20. So the matter ended: the additional subscriptions required for the widows' extended benefits only bore 4 per cent.

21. The members of the Bengal Service will easily perceive that the legal effects of this change in the rules is almost identical with that of the change which was made in Bengal in 1850. Are, then, Mr. Farish's resolutions binding on the Secretary of State? The question has already been raised and decided beyond all possibility of doubt. The Secretary of State has confessed

judgment in a suit based on them which is reported in Chancery, Volume IX, Reports, page 495. One Mrs. Flower, the wife of a Bombay Civilian, who had agreed to Mr. Farish's resolution, but did not actually subscribe, died in 1863, and administration of her estate was granted to Mrs. Edwards, who, with her husband, filed a bill against the Trustees of the Fund and the Secretary of State for India, and prayed for a declaration that Mrs. Flower was entitled to an annuity of £300 a year from the death of her husband, and for payment of the same with compound interest at 8 per cent. Vice-Chancellor Bacon decreed the whole amount. The Trustees appealed. Mr. Macnaghten appeared for the Secretary of State. The judgment of the Lords Justices ran as follows:—

"The defendants to the bill are four persons who are or were members of "the Committee of Management, and the Secretary of the Association, as repre- "senting the entire body, and the Secretary of State in Council for India. *The "Secretary of State has taken no part in the discussion before us.* The other defend- "ants insist that the suit ought not to have been instituted in, and ought not to "be entertained by, this Court, the proper forum being the High Court of "Bombay. But they admit at the bar that if the suit could be sustained in "this country against the Association, or body of members representing it, they "may be taken as sufficient representatives of such Association.

* * * * *

"It is to be observed that by the rules the annuities to widows and children "are payable in English money, and are to be paid in *England*, if the annuitants "reside in England, or elsewhere in Europe. We think, however, that it is "unnecessary to determine whether the circumstance of the annuities being "made payable in England gives jurisdiction to this Court to enforce payment, "because, assuming that if a motion had been made to discharge the orders "from the service of the bill in India, or if the objection to the bill had been "raised by plea or demurrer, it would have been fatal; still, having regard to "the fact that the defendants did appear unconditionally to the suit, and no "application was made to discharge the service of the bill in India; that no "objection to the jurisdiction was raised either by plea or demurrer; that the "case was fully litigated here with pleadings, evidence, and arguments on all "points; and *that the Government of India really holds the money and has taken no "objection to the suit*, we think that we ought to deal with and determine the "questions which have arisen between the parties." Finally, an order was passed decreeing so much of the annuity as was not barred by limitation.

CONCLUSION.

22. From the history of the Madras and Bombay Funds the following conclusions can be deduced:—

(1) That the members of the Madras Service having suffered from fluctuations in the rate of exchange and interest, wished to place their Fund in such a position as would render it independent of such fluctuations, and offered the Directors a *perpetual* loan, subject to be called in for Fund claims, on condition of being allowed a fixed rate of interest, and this was accepted. Hence, since the consideration must ordinarily be co-extensive with the *promise*, the promise was for a perpetual rate of interest at 8 per cent.

(2) That this was the interpretation put on the transaction—

(*a*) By the members of the Bombay Service and the Bombay Government in 1821 (para. 9);

(*b*) By the Bengal Service in 1826, when they said, in a memorial to the Court of Directors:—"As our embarrassments have mainly "arisen from *a reduction of interest, against which the Honorable "Court have liberally guaranteed other similar institutions*, we trust "we may be permitted to look to their humane consideration "for the means of extricating the Fund from its pressing diffi- "culties;" and

(*c*) Apparently by the Directors in 1842 (para. 18).

(3) That at all events this interpretation was made known to the Directors and was not repudiated, and that subsequently they received the Fund subscriptions (para. 9).

(4) That the 8 per cent. covered the "accumulating capital" (para. 7).

(5) That though the donation of 500 pagodas granted to the Madras Fund was subject to an express provision that the money should be expended for the *original purposes* of the institution, no such express condition was attached to the 8 per cent. interest, and apparently, as a consequence,—

(*a*) That the members of the Service at Madras considered that they had a right to the 8 per cent., irrespective of whether they hoarded or not; that such a right was asserted in 1838 and 1840, and not denied by the Directors (pp. 19, 22); and further

(6) That though the Directors never refused 8 per cent. on the original subscriptions, they asserted a right to do so on *additional* subscriptions for objects of which they did not approve.

(7) That the clause in the covenant was inserted to protect the Directors from claims made upon them for relief.

23. There is then a strong body of evidence in support of the opinion that up to and after 1832 the members of the Service at Madras and Bombay had a right to 8 per cent.—

(*a*) In perpetuity, and

(*b*) On their capital and original subscriptions, whether hoarded or not.

BENGAL FUND.

On the 1st of October 1804 a meeting of Civil Servants was held at the College of Fort William for the purpose of instituting a Civil Fund.

2. The immediate objects of the Fund were to provide for the maintenance of the widows and children of such of the subscribers to it as might not leave property sufficient for the subsistence and education of their families, and to assist in maintaining any of the subscribers themselves who might be compelled by sickness or infirmity to return to Europe for the recovery of their health without an adequate provision for their support.

3. The Directors, in their letter of the 16th June 1802, had informed the Madras Service that the case of such of their servants as might become disqualified, either by mental or bodily infirmities, for active services, and who might be desirous of retiring to their native country, would always be considered by them with humane attention to their situation and circumstances: the Fund therefore did not extend to such cases. Further, it was determined to address the Directors for permission to such of their Civil Servants as might be under the necessity of returning temporarily to Europe for the re-establishment of their health to proceed thither on leave of absence for a period not exceeding three years, unless prolonged by renewed permission, with the allowances granted to servants out of employ in India. It was believed that if the Fund were released from this charge by the Directors, the contributions of the subscribers to the Fund would be sufficient to provide for the remaining objects of it. But if the Directors should refuse, it was determined that they should be solicited to extend the same support which they afforded to the Madras Civil Fund by an annual donation.

4. The contributions were proportioned to the monthly salary or other public allowance of the subscribers, and fixed from the first day of January 1804 at the following rates, viz.—

	Sa. Rs.
If not more than sa. rupees 1,000 per mensem	10
Ditto ditto 1,000 and not above sa. rupees 2,000 ...	20
Ditto ditto 2,000 ditto ditto 3,000 ...	30
Ditto ditto 3,000 ditto ditto 4,000 ...	40
Ditto ditto 4,000	50

5. The advantages were—

(1) Any subscriber compelled by sickness or infirmity to proceed to Europe, and not possessed of sufficient means to pay for his passage and support himself and family, should receive from the Fund a donation equivalent to the Company's allowance for a twelvemonth to a servant of his rank when out of employ, viz. a senior merchant, sicca rupees 4,000; a junior merchant, sicca rupees 3,000; a factor or writer, sicca rupees 2,000. At the expiration of one year, if he were in Europe, a further donation should be made to him equal to that advanced to him upon his embarkation from India, at the exchange rate of 2*s.* 6*d.* for the sicca rupee, viz. £500, £375, or £250; and should the state of his health render it necessary to protract his stay in Europe beyond the second year, he should at the commencement of the third year receive a donation equal to a moiety of the amount paid to him in the preceding year, and this included all claims whatever upon the Fund to the period of his return to India. Passage-money might be granted in cases appearing to require it in addition to the sums above specified: in such cases the amount should be determined by a general meeting of the subscribers.

(2) A widow in India left without an income exceeding Rs. 100 per mensem should receive a pension of Rs. 300 per mensem during her residence in India. If not resident in India, and her income should not exceed £100 per annum, the pension assigned should be £300 per annum.

If the income of the widow were more than sicca rupees 100 per mensem, or more than £100 per annum, but not exceeding £400 per annum, the pension assigned should make up her income to Rs. 400 per mensem in India, or £400 per annum in Europe.

In the event of a widow to whom a pension had been assigned acquiring subsequently any property or income which, with the property left to her at her husband's decease and the pension received by her from the Fund, rendered her total income, including her pension from the Fund, more than Rs. 500 per mensem in India, or more than £500 per annum in Europe, her pension should be reduced in proportion, or altogether discontinued in the event of her property or income, exclusive of the pension assigned to her from the Fund, being equal to the full sum of Rs. 500 per mensem in India, or £500 per annum in Europe.

(3) All widows' pensions were liable to discontinuance on re-marriage; but in the event of their being again left in a state of widowhood, without an adequate provision for their support, and of their appearing to be proper objects of the Fund, they might be re-admitted to the benefits.

(4) Widows in India when admitted to the benefit of the Fund and subsequently returning to Europe, and unable to pay their passage to Europe, should be supplied with passage-money in addition to the half-year's advance of their pension.

(5) The allowance for the education and maintenance of each child in India or in Europe should be subject to private property, and as follows, viz.

Till five years of age Rs. 30 per mensem in India, or £30 per annum in Europe.

From the commencement of the sixth year to the end of the eighth year Rs. 40 per mensem in India, or £60 per annum in Europe.

From the commencement of the ninth year to the end of the eleventh year Rs. 50 per mensem in India, or £80 per annum in Europe.

From the commencement of the twelfth year Rs. 60 per mensem in India, or £100 per annum in Europe.

(6) The provision so made for female children ceased on their marriage, or on their being settled in any profession or employment; the provision for male children on their being settled in any profession or employment, or on their attaining the age of twenty-one years. But any requisite sum, not exceeding £500, might be appropriated to the benefit of male or female children at the time of their marriage, or of their being settled in any profession.

(7) Children, when admitted to the Fund in India, might be allowed passage-money not exceeding sicca rupees 1,000 for each child; and a similar allowance, not exceeding £100, might be granted for the return to India of any children admitted to the Fund who, after completing their education in Europe, might return to India with the permission of the Court of Directors.

6. On the same day the Managers were appointed, and on the fourth they submitted a printed copy of their proceedings to the Supreme Government, with a letter in which they solicited the patronage and support of His Excellency in Council, and expressed a hope that he would assist in carrying out the proposed objects.

7. The project was favourably received by the Governor-General. He authorized the Government officers mentioned in the 15th article to act as Managers and Trustees and to assist in carrying out the plan, and promised to recommend it in the next despatch to the Court of Directors as worthy of their countenance and support. In the meantime arrangements were made for conducting the transactions of the Fund with Government, and in February 1805 the whole was in full operation, and subscriptions were collected by Government as at present.

8. In February 1804 the answer of the Directors arrived, and was on the whole unfavourable. The Directors declined to be bound by their answer to the Madras Fund, and desired to tack on an Annuity Fund to the scheme drawn up by the Bengal Civilians. They objected to the smallness of the subscription, and commented on the absence of any statements or calculations from which they could judge the amount of support that would be necessary, and wound up by declaring that it was a *condition precedent to their assistance* that no person dismissed the service or under suspension should be admitted to participate in the benefits of the Fund. The more important paragraphs of the letter were as follows:—

"We have ever been disposed to consider with humane attention the "situation and circumstances of such of our Civil Servants as might, from "mental or bodily infirmities, become disqualified for active service before they "had acquired a provision necessary for retirement. But when we consider "the advantages attached to the civil establishments under our several presi- "dencies in India, which certainly afford to our servants employed therein, "within a reasonable period of service, a prospect of returning to their native "country with at least a moderate independence, we cannot feel ourselves "justified in acceding to a proposition of such magnitude as that which is "contained in the 2nd and 3rd articles of the plan now before us. * * * But "we are of opinion that both these cases are proper and important objects of "the proposed Civil Fund. To a Fund of the same nature established at Fort "Saint George we have given our sanction and support. The plan of that Fund, "in addition to the benefits it provides for the widows and legitimate children "of indigent members, makes also an ample provision for retirement of a "certain number of our Civil Servants at that presidency, as well as for the "maintenance of such as may be compelled from sickness to return for a limited "period to England. And if the Bengal Civil Fund is constituted upon the "same principles, we shall have great pleasure in contributing also to its "augmentation.

"In the Madras deed of 1787 we observe the Fund established at that "presidency was to accumulate for three years before any benefit could be "derived by the subscribers, and a regulation to the same effect has been "agreed to at Bombay, for which purpose a subscription of 5 per cent. per "annum on salaries and allowances is required, although after that period the "subscription to the fund is only rated at 2 per cent. per annum, with this "addition, that if a subscriber is under the absolute necessity of leaving India "before the expiration of the three years in which the fund is to accumulate, "and wants assistance to defray his passage to Europe, an additional percentage "is to be levied on the subscribers. We therefore are of opinion it would be "a great improvement of the Bengal plan if something of the same kind were "incorporated in it.

"Another point to which we wish to call your attention is that in the "regulations adopted at your presidency there does not appear to be any "distinction made between persons retiring honorably from the service and "such as may be in a state of suspension or dismissal from it. *To induce the "Company to become contributors, we therefore require as an indispensable rule that no "person dismissed our service or under suspension be admitted to a participation of the "benefits of this Fund.*

"The provision made for the benefit of widows and children *born in wedlock* "of such of our Civil Servants as may die in indigent circumstances meets with "our entire approbation; and should the suggestions we have here thrown "out have the desired effect by assimilating the Bengal Fund more to that "established at Madras, the institution will be assured of our protection and "support."

9. The members of the Service so far acquiesced in the despatch as to frame a rule precluding persons dismissed or under suspension from any participation in the benefits of the Fund, but beyond that they would not go. They declined to accept the suggestion thrown out of starting an Annuity Fund, and urged, in support of their opinion, that such an object required a large

accumulation of capital and a monthly subscription of three times the existing rate; that the capital must be raised either by suspending the operation of the Fund for a number of years, as was suggested by the Directors, or by raising a large sum by immediate subscription; that on the one hand to suspend the Fund would involve its destruction, and on the other the members of the Service were not disposed to subscribe largely in support of an annuity scheme. They again pressed their own views on the attention to the Directors, and ended by respectfully soliciting—

"First, that the Honorable Court will be pleased to accept the patronage "of this institution, to encourage it by their protection, and to extend to this "Fund the support which they have afforded to the Madras Civil Fund, by "such annual donations, or other pecuniary assistance on the part of the "Honorable Company, as may appear to them proper, on a consideration of the "number of their servants on this establishment, and the objects to be provided "for by the present institution.

"Second, that the Honorable Court will be pleased to make a regulation "that all persons who may hereafter enter the Civil Service shall become "subscribers to the Civil Fund, and shall continue to subscribe while in the "receipt of allowances from the Honorable Company in India."

10. The answer of the Directors was despatched in February 1808. They generally approved of the Fund: its objects were laudable, and it would protect them from constant claims for pensions by the infirm members of the Service. But they clearly pointed out that they would have been much better pleased if the members of the Service had agreed to tax themselves and establish an Annuity Fund. In short, the members of the Service were endeavouring to induce the Directors to grant furlough allowances at Government expense, while the Directors were endeavouring to solve the difficulty by the institution of a Fund similiar to the institutions at Madras and Bombay, and the contest continued till 1809, when the Directors declared that the idea of allowing their servants three years' furlough in Europe on the allowances granted to them in India when out of employ could not be entertained, and recommended the Service to follow their brethren at Madras and Bombay in extending the benefits of the Fund to meet such cases. The nature of the dispute is fully brought out in the following extracts from their despatch of 1808:—

"Whatever preference we may think due to the more comprehensive plan "of the Madras Civil Fund as now constituted, we feel no difficulty in admit-"ting that the objects of the Bengal institution, as explained by the Managers, "were laudable and were urgent,—they were the relief of the distressed families "of Civil Servants, and the aid of servants themselves; the support of the "needy widow and orphan; of the indigent sick obliged to a change of climate; "of the infirm, destitute of the means of retiring to Europe. To an institution "formed upon these views, it certainly was not our intention to refuse counte-"nance and assistance.

"The fair emoluments of our Service have also usually enabled the "industrious and the prudent to retire in sufficient time, and where from any "cause the means of doing so have not been obtained, we have been disposed "to view the case with indulgence; but from the state of our expenditure, our "income, and our debt, it must be evident to you *and to the world* that there "is necessity for the practice henceforth of a more rigid economy in our affairs "than has been in easier times deemed requisite, and that such necessity is "likely to endure long. Lest, therefore, this should lead to some new consi-"deration of the case of servants who, though remaining in the country, have "withdrawn from active employment, it will surely be desirable that all who "fall under this description, or can no longer be ranked in the active class of "servants, should have another resource within their reach.

"*We should greatly prefer assisting, even to an equal amount, in the formation "of such a resource to the pensioning at home of Civil Servants compelled by infirmity "to relinquish their prospects in India without provision. Such a principle once "admitted would be gradually and indefinitely extended, without its being possible for "us to exercise the discrimination that would be necessary.*

"We are satisfied with the footing on which the Managers of the Bengal "Fund, in their proceedings now before us, have placed the former of these "articles respecting servants dismissed, and also servants under suspension. "With regard to the latter article, it has been the practice of all civilized "nations to honor marriage by establishing a marked distinction in favour of "the offspring of that union, and placing under disabilities the offspring of illicit "connection. The welfare of society is intimately concerned in maintaining "such distinctions in private life, and much more ought they to be observed in "solemn public acts. We therefore highly approve of the respect paid to this "principle in the formation of the Bengal Civil Fund.

"In considering the support to be given by the Company to this institu- "tion, we must pay regard to the extent of its objects. Whilst the Madras "Fund was directed to the relief of such distress and indigence as are now the "objects of the Bengal Fund, our annual contribution to it was £1,480. When "its plan was enlarged to comprehend all subscribers retiring from the service, "we made a considerable addition to that allowance. At present we think it "will be sufficient if we appropriate the sum of £2,500 annually to the Bengal "Civil Fund, and such appropriation we hereby direct you to make. If the "Fund is made a general one, to take in all retiring subscribers, we shall make "such further addition to this grant as the articles of the new plan and the state "of the Company's affairs at the time shall appear to render proper.

"The patronage of the institution we, at the desire of the Managers, "accept."

11. The proposition which the Managers had suggested to make it compulsory on every civilian to subscribe to the fund was favourably received, and apparently there was some intention of passing an order to this effect. Somehow nothing was done, and in 1812, when the subject was again pressed on the Directors, they declined the proposal, on the grounds that "it would be "highly improper to depart from the principles upon which the society was "founded and make subscriptions to it compulsory." And so the matter remained until the Directors in 1823 found it necessary for *their own protection* to impose such a condition on their Covenanted Servants.

12. From the beginning the Fund had acted liberally to those members of the Service who fell upon it, while the Directors met all applications for assistance by referring them to the Fund. In some cases allowances were granted under circumstances not covered by the rules. Thus the correspondence shows how in 1809 the brother of one Mr. Bell wrote out to the Managers asking that a permanent allowance might be granted to that gentleman, and based his application on the ground that he was informed he could expect no assistance from the Court of Directors unless refused by the Civil Fund. At a general meeting in 1813 a permanent allowance of £200 per annum was granted to him so long as his malady continued. This annuity continued for many years. In 1838 the Managers brought the grant to the notice of the Directors, and asked to be relieved of the charge; but the Directors never replied. This is a strong case to show that the Directors were more anxious to relieve themselves from demands for pensions than they were to uphold the rules of the Fund.

13. In 1817 pressing difficulties compelled the Managers to reduce widows' pensions from £400 a year to £300, and retrench the usual allowance of Rs. 3,000 passage-money to sick members, as well as all other disbursements not absolutely compulsory under the Fund's rules. In this difficulty they addressed Government, and in the 21st and 22nd paragraphs they said:—

"From the foregoing observations the Vice-President in Council will "perceive that every measure within the competency of the Managers and "of the subscribers to the Civil Fund at the presidency has been adopted with "a view to guard against the progressive diminution of the resources of the "institution. We have, as above stated, reluctantly determined—

"(1) To diminish the scale of allowances hitherto granted to widows;

"(2) To reject all applications for passage-money, as well as other claims "of a pecuniary nature, in all instances in which the rules of the institution "vest us with a discretionary power of refusing to comply with such claims; "and

"(3) To adopt such arrangements as are in our power to induce the "present subscribers to refrain from availing themselves of the option of with- "drawing their subscriptions. These measures, however, will prove insufficient "to secure the stability of the institution unless the Honorable the Court of "Directors will be pleased to make a permanent subscription to the Fund "imperative on every one entering the Service, so that the future members "of the Civil Service may, as such, be considered to belong to the Fund, and "the prescribed deduction from their salaries be made by the Civil Auditor as "a matter of course."

14. These papers were forwarded to the Court of Directors apparently without any further remarks: the Government declined to offer any opinion to the Court on the expediency of rendering subscriptions to the Fund compulsory, as this had been previously submitted for their consideration. The Directors, it appears, gave no reply to this letter.

15. In 1822 the Bengal servants memorialized for permission to return to Europe under certain regulations without forfeiting their appointments, and for the establishment of an Annuity Fund. An answer was secured in 1824, and in it the Directors pointed out that they gave considerable assistance to the indigent members of the Service. Moreover, it shows how thoroughly well acquainted they were with all other details of the different funds, and that they had *agreed to give a permanent rate of exchange and* 8 *per cent.* on the assets of the Fund at Madras and Bombay They said:—

"We premise that although Civil Servants are not at present entitled to "receive from the Company any allowance either on temporary leave of "absence or on retirement, yet those objects have been provided for to the "following extent in the regulation of funds formed by the subscriptions of "Civil Servants, aided by contributions from the Company, viz.—

"*Bengal.*—To subscribers compelled to proceed to England for the benefit "of health, and upon oath of straitened circumstances, allowances for a period "not exceeding three years in the whole, and subject intermediately to the "occasional production of strong medical certificates—

	£	
If a senior merchant	500	per annum.
Junior ditto	375	ditto.
Factor or writer	250	ditto.

"*Madras.*—To a subscriber compelled to proceed to England for the "benefit of health, or under circumstances of distress, such an allowance as may "make his total income, whether arising from his own means or from the Fund, "£300 per annum, the amount for the first year being advanced previously to "leaving India. This allowance is granted for three years, and in certain "cases is extended to a fourth year; the whole is subject to a condition that "the amount shall be refunded upon return to India. To Civil Servants, "according to seniority, the offer of annuities if they choose to retire, is made— "some amounting to £600 and some to £400 per annum. The condition for "the grant of such annuities is that the grantee shall have paid either in sub- "scriptions to the Fund a certain aggregate sum, or that he shall pay the "difference between such sum and the amount of his subscriptions.

"*Bombay.*—To subscribers compelled (without possessing adequate means) "to quit India for the recovery of health, an advance of Rs. 2,000 on loan, "without interest, and an allowance of £300 per annum at the commence- "ment of each year for three years.

"To subscribers, according to seniority, upon similar conditions as at "Madras, the offer of annuities upon retirement of £400 per annum each.

"It is our practice, at the request of the Managers of the Funds, to advance "sums in England, repayable to the local Governments in India, at rates of "exchange very favourable to the funds, which enable them to bear the charge

" of the temporary allowances and *permanent* annuities *free from deduction in* " *consequence of the alteration of the current rate of exchange; and we also grant to the* " *Civil Funds of Madras and Bombay, in addition to direct pecuniary contributions,* " *an equivalent to interest on their deposits at the rate of* 8 *per cent per annum;* and " thus it is clear that the subscribers receiving benefit in England from this " institution must be regarded as having *accumulated to the extent of their* " *property in the Fund, free from all loss, either in exchange or in interest.*

" It is, however, apparent from the preceding statement that, so far as " respects absentees in Europe, the benefit is restricted to temporary allowances " to sick and indigent servants, and which, in some cases, are granted by way of " loan; and that, so far as respects annuities upon retirement, no such advantage " is secured to the Bengal servants."

16. In the meantime, in 1823, the Directors, urged by the case of Mr. Willock, referred to in paragraph 17 of the Madras memorandum, determined on rendering it compulsory on all the members to subscribe to the Fund; and they again pressed on the members of the Bengal Service the propriety of engrafting an annuity scheme on their Civil Fund, giving as their reason that it was but just that the whole body of contributors should obtain some contingent benefit independent of circumstances of distress. They also declined to assist in repealing the 33 Geo. 3, cap. 5, sec. 37, which would have to a certain extent avoided the necessity of an annuity fund. The letter is a link in the chain showing what pressure was put on the Bengal men to join in an annuity scheme, and how the Directors, when it suited them, saw no objection to the incurring Fund liabilities beyond the original objects of the Fund.

" The Government of Fort Saint George, in bringing to our notice the case " of Mr. Willock, for whose return to England on account of ill health the " College Board had been authorized to provide at the public expense, which " case was of a nature to show clearly the necessity of a general provision for " contingencies of a similar nature, and for other cases of distress which from " the neglect of some of our Civil Servants to subscribe to the Civil Funds of " their respective presidencies became subjects of appeal to our benevolence, " *and eventually a charge on our finances,* drew our attention to the expediency of " making it henceforward a condition with all our Civil Servants, on their first " appointment as writers, that they shall become subscribers to the Civil Funds, " and continue their subscriptions throughout their periods of service, with " a view to their own security and to our *relief from unnecessary charge.*

" After very mature deliberation we have determined to adopt the suggestion " of the Madras Government, and shall henceforth insert a stipulation in " the covenants of all our Civil Servants accordingly. *Of course those persons* " *who are already in our service, and who have not subscribed, cannot be dealt with in the* " *same manner; but we desire that you will make it known to the parties who are not* " *subscribers to the Civil Fund that it is the Court's wish that they may be induced, one* " *and all, to subscribe thereto, it being our determination* to refuse compliance with " any application for relief on the behalf of the widows and families of those " of our Civil Servants who shall decline to contribute to the Civil Fund.

" The chief object of these institutions has hitherto been to afford relief in " cases of distress, however originating; but when it is obligatory upon our Civil " Servants to contribute, it appears just and necessary that the Fund should hold " out to the whole body of *contributors some contingent benefit independent of circum-* " *stances of distress.*

" The optional annuities engrafted on the charitable purposes of the Civil " Funds of the presidencies of Madras and Bombay will answer this purpose, " and we hope to see the same adopted at your presidency.

" In our letter dated the 17th December 1822 (paragraphs 2 and 3), we " acknowledged the receipt of a memorial from the Civil Servants at your presi- " dency, requesting our aid towards obtaining a repeal of that part of the " 33 Geo. 3, cap. 52, sec. 37, whereby it is enacted that—' If any officer " ' whatever in the service of the said Company shall quit or leave the presi- " ' dency or settlement to which he may belong, other than in the known and " ' actual service of the said Company, the salary and allowance appertaining to

" 'his office shall not be paid nor payable during his absence to any agent or " 'other person; and in the event of his not returning back to his station at such " 'presidency or settlement, or of his coming to Europe, his salary and allow- " 'ances shall be deemed to have ceased from the day of his quitting such " 'presidency or settlement, any law or usage to the contrary notwithstanding.'

" In reply to that memorial we informed you that, however disposed we " may be to extend every indulgence to our Civil Servants when afflicted with " ill health, yet we are not prepared to take any steps towards obtaining the " repeal of the clause in question. But we think it possible to provide to a certain " extent for the contingencies adverted to in the memorial from the resources of " the Fund, which may be effected by a modification of the conditions of the " Fund to the following effect, namely, that all subscribers proceeding upon " sick certificate to the Cape or elsewhere, other than to Europe, be entitled to " draw from the Fund during their absence the allowances of a Civil Servant " out of employ, according to their respective rank, the same to be repaid to " the Fund in the event of their returning to the receipt of their allowances, " in deposit without interest; but in the event of their death or proceeding to " Europe the same not to be repaid, but to remain a charge on the Fund. " Should they proceed to Europe they ought also to have the benefit of that " clause of the Fund regulations which authorizes in certain cases an advance " for passage-money.

" We strongly recommend the insertion of some such stipulation in the " terms and conditions of the Civil Fund of your presidency."

17. The members of the Bengal Service naturally did not take the same view of the proposition as the Directors. They had a strong objection to the proposal, and they courteously but firmly declined to accept it, save on certain conditions. They said:—

" *First.*—With respect to individuals of the Service proceeding to the Cape " of Good Hope for health, the Civil Fund will undertake to make an allowance, " equivalent to the rate to which they would be entitled if out of employ in " India, to any members of the Civil Service subscribing to the Fund who may " proceed to the Cape or other place within the limits of the Company's " charter, on sick certificate, provided the Honorable Court of Directors will " authorize the payment to the Fund of the proportion of the allowances of such " individuals which by the rules of the Service may be deducted from their " salary on payment of the arrears upon their return.

" *Secondly.*—We will undertake to allow to individuals obliged to proceed " to Europe for health the same rate of allowance during the period of their " necessary absence as that to which they would be entitled as servants out " of employ: provided that the Honorable Court will sanction the payment " to the Fund of a sum equivalent to the allowance which each Civil Servant " so relieved would be entitled to draw if unemployed in the country.

" The above are the terms on which it seems to us that we can at once relieve " the Honorable Court of Directors from all apprehension of such claims as the " Honorable Court would seem to anticipate as a fruitful source of expense and " inconvenience to them; and we beg permission to add that we do not think " that we could, in justice to the body of subscribers to the institution, or to " the particular interests for which it was established, venture to take on " ourselves so heavy a contingent charge on any terms that may not involve " some equivalent of the kind above indicated as a compensation for the risk " and trouble to be induced."

18. Nor did the proposal of the Directors to render subscriptions compulsory receive a more favourable reception. At first the members passed it over in silence, but on Government calling their attention to the omission they wrote as follows:—

" In truth, until our attention was again drawn to the terms of the " paragraph in question, it did not occur to us that so extensive a measure was " contemplated as to induce *every member* of the Service to contribute to the " Fund, as well those about to join the Service as individuals who have " attained rank in it, and who refused when the option was given to them.

" With regard to the former, we beg to state that of late years sub-
" scription to the Fund has been general, and admissions are accompanied with
" a stipulation that appears to secure us from subsequent secession. But it
" may be advantageous that Government should add the authority of an intima-
" tion, such as directed by the Honorable Court. With respect to the latter, we
" beg to submit it as our opinion that, supposing it to be possible to make
" the subscription universal, we think the Fund might securely undertake, at
" the present rates of subscription, to give to every member of the Service,
" without discrimination, the advantages now offered by the rules of the
" institution. We think, however, that this is all the Fund could undertake,
" and that the proffer of further benefits is out of the question, the rate of
" subscription having been proved by experience not to be sufficient to cover
" the incumbrance which arises out of its present limited undertaking. As stated
" in our previous letter, there can be no extension of the inducements to subscribe
" without a corresponding enhancement of the subscription; and this we
" deprecate any attempt to introduce, as calculated to diminish the number of
" our subscribers and seriously to affect the best interests of the institution.

" It is as a charity that we ventured to solicit the aid of the Honorable
" Court to the institution, having, as we thought, satisfactorily shown the
" existing funds to be insufficient for the useful objects contemplated. Its
" poverty utterly prevents our entertaining any proposition calculated to
" increase its burthens without providing ample, and even superfluous, means.
" Hence we cannot consent to a partial admission of non-subscribers, and
" anticipate no benefit from the measures proposed by the Honorable Court for
" our relief. The considerate motives which have eventually influenced the
" suggestions contained in their letter deserve our warmest gratitude; but we
" much fear we have failed to explain fully the real character and condition of
" the institution, *else we cannot believe that the Honorable Court would not have accom-*
" *panied their proposal to extend the objects undertaken by the Fund without an offer*
" *of some corresponding donation equivalent to the proposed burthen.*"

In short the contest ended in a drawn battle, and things settled down to the condition they were before the correspondence had arisen. It had run through the usual course. The Managers asked for assistance; the Directors answered, and pressed on the members what they wished them to adopt; the Service refused, and both parties retired to their original positions.

19. When the Fund was instituted in 1804, there was a great scarcity of bullion all over Europe, and as a natural consequence the rate of interest in this country was high—exchange favourable to remitters. Thus the assets of the Fund were invested on the 30th of September 1805 as follows:—

	Rs.	A.	P.	Rs.	A.	P.
In 8 per cent. Government securities—						
1st November 1800	10,000	0	0			
1st April 1805	1,000	0	0			
1st September „	11,800	0	0			
In 10 per cent. ditto for two years—						
21st September 1805	2,700	0	0			
Treasury order applied for, not yet received	6,316	5	4			
Cash unappropriated	115	13	1			
				31,932	2	5

But the return to specie payments in England in 1819, and the subsequent financial prosperity of this country, told heavily on the Fund.

In 1808 the Government refused to give retrospective effect to the orders of the Directors granting a donation of £2,500 per annum, and the first payment appears in our accounts for 1809. The payments were made in India at the exchange rate of 1*s.* $9\frac{828}{1135}$ of a farthing per current rupee, which was the rate fixed by Act of Parliament for the conversion of the salaries of the Governor and Judges of the Supreme Court. The payment of the corresponding number of sicca rupees 24,418-1-6 appears regularly from 1808 to 1821 inclusive. In 1822 the Managers determined on taking payment

in Europe. In January 1822 the Secretary wrote to their English Agents—"I have now the pleasure to enclose you the first of a set of bills for £1,044-15-0, "and to inform you that it is the Managers' intention to apply to the "Honorable Court of Directors for the payment to you of their donation of "£2,500 per annum to the institution;" and in a letter to Government, dated 22nd August of the same year, he said:—"Existing circumstances rendering it "extremely desirable that the annual donation of £2,500, which the Honor-"able Court of Directors have been pleased to assign in support of the Civil "Fund, should be for the future paid to our Agents in England, we are induced "to solicit the favourable recommendation of His Excellency the most Noble the "Governor-General in Council to the Honorable Court that such payment may "be made in England, commencing with the current year's donation becoming "due on the 1st of January 1823." Since that time the donation has continued to be paid in England.

20. In April 1824 the Managers found that in addition to reduced interest they had to contend against the effect of an unfavourable exchange, and, urged by necessity, they addressed the Government asking for an exchange at 2*s*. 1*d*. per rupee. They said:—

"We again feel ourselves under the necessity of obtruding the concerns "of the Civil Fund upon the notice of His Lordship in Council, and have "therefore to solicit the favour of your submitting, for His Lordship's information, "that under the late alteration in the nature of the Honorable Company's funds "we are divested of the means of making the required remittance to England "for the payment of pensioners of the institution resident there without "a very heavy charge upon the Fund, which it is at present almost inadequate "to bear. We therefore humbly trust that His Lordship in Council, in consi-"deration of the extensive benefits resulting from the institution and that of the "fact that those who benefit by the charity for the most part reside at home, "will be pleased to direct the Accountant-General to grant bills for such "dividends as may fall due from time to time in favour of the Agents of the "Fund residing in Europe, under the advertisement *issued in the Territorial* "*Department*, dated the 14th February 1822, and to sanction the Sub-Treasurer "receiving from our Treasurer such further sum as may be required to make "up the necessary remittance, estimated at £8,000, for bills to be granted on "the Honorable Court of Directors at the same rate of exchange, viz. 2*s*. 1*d*.

"*To strengthen our claim to such an indulgence, we beg leave to advert to the* "*advantages which the Civil Fund of the sister presidency has over that here, from the* "*Honorable Court of Directors having sanctioned an interest of* 8 *per cent. per annum* "*to be paid upon the amount of the funds in the treasury, instead of* 5 *per cent. now* "*allowed upon ours, the difference between the two rates of interest acting against our* "*funds to the extent of upwards of Rs.* 20,000 *per annum.*"

21. Government granted the assistance applied for. A similar request was made in 1825 and acceded to; and from that time the Fund continued to remit its home allowances in bills on the Directors at 2*s*. 1*d*. the sicca rupee. The matter connected with this transaction is worthy of attention, as it explains the hitherto contested despatch of 1832, and shows that the sums paid for the bills in this country were treated as connected with the Territorial Department. The Government, in its answer to the application in 1824, said:—

"I am directed to acknowledge the receipt of your letter of the 29th "ultimo, and to inform you that, under the circumstances therein represented, "of your inability to make remittances to England for the payment of the "pensioners of the institution resident there, without entailing a heavy charge "upon the funds under your management, the Right Honorable the Governor-"General in Council has resolved, in compliance with your application, to "authorize the Accountant-General to grant bills to such dividends as may fall "due from time to time in favour of the Agents of the Fund in Europe, *under* "*the advertisement, dated the* 14*th February* 1822, *issued from the Territorial* "*Department.* The Acting Sub-Treasurer will also be instructed, as requested "by you, to receive from your Treasurer, for bills to be granted on the Honor-"able Court of Directors at an exchange of 2*s*. 1*d*. per sicca rupee, such further

" sum as may be required to make up the estimated amount of £8,000, which " you are now desirous of remitting to England."

22. In 1826 the position of the Fund was this: the interest on its investment had fallen to 5 per cent., and the rate of exchange at which the home disbursements were remitted had diminished from 2*s.* 9*d.* the rupee in 1815 to 2*s.* 1*d.* in 1826. Even this was a higher rate than was available to the public in the open market, where no higher than 1*s.* 11*d.* could be obtained. In short the Fund was on the verge of insolvency, and as a last resource the Managers addressed the Court of Directors a letter in which they refer to the position of the Fund, the fact that the Directors had *guaranteed* Bombay and Madras a fixed rate of interest, and asked for the surplus deductions of the absentee allowance. The following are the more important paragraphs:—

" The Managers, in their letter of the 15th October 1817, paragraphs 24 " and 25, alluded to the causes which had so materially contributed to the " embarrassment of the Fund. We now take the liberty of subjoining a state- " ment (No. 2) exhibiting the amount which would have accrued to their Fund " had it pleased the Honorable Court of Directors to have extended the bounty " by sanctioning the payment of their annual donation of £2,500 per annum " from the period when the institution came into active operation, viz. 1st " January 1804, to which we have added the loss to the Fund arising out of the " reduction of the interest on the public funds, and rate of exchange on the " remittances which are annually required for the payment of the pensions of " incumbents on the Fund residing in England.

" It will, of course, occur to the Governor-General in Council that the " recent orders of the Honorable the Court of Directors relative to furlough will " relieve the Civil Fund from that part of its expenses which used to be incurred " on account of allowances to members of it proceeding to England in con- " sequence of ill health. That relief, however, will in fact be but inconsiderable, " for the Fund has for some time past ceased to grant allowances to invalids " as donations, and until the Honorable Court's orders above referred to came " into effect such allowances were granted in the shape of advances, to be repaid " hereafter without interest, so that the actual relief to the Fund by the " Honorable Court's recent arrangements will be confined to the saving of " interest on the amount advanced to invalids, and to the exemption of the Fund " from the risk of failure in the repayment of the principal advanced.

" The deterioration of our resources being thus so manifest and alarming, " we must contemplate the adoption of retrenchments most painfully affecting " the comfort of numerous individuals, and curtailing the already narrow " stipends which now constitute the support of the widows and orphans of our " deceased fellow servants, who died in the confidence that their families were " permanently and respectably provided for, unless the beneficence of the " Government shall interpose to prevent so distressing a necessity.

" Our reluctance to adopt such a measure is not indeed founded solely " on the immediate effects which it must have upon the incumbents. We " fear it might lead to the secession from the Fund of many who now continue " their contributions from charitable motives, and thus accelerate the mischief " which it was designed to obviate. The same consideration applies to any " proposition for altering the rate of contribution. *And as our embarrassments* " *have mainly arisen from a reduction of interest, against which the Honorable Court* " *have liberally guaranteed other similar institutions*, we trust we may be permitted " to look to their humane consideration for the means of extricating the Fund " from its pressing difficulties.

" We presume to suggest a source from which, in our judgment, the " solicited relief may be afforded without that sacrifice on the part of Govern- " ment which a considerable alienation of the public money might at first sight " appear to involve. We allude to the Fund which has accumulated from the " deductions made from the allowances of Civil Servants absent on account of " ill health or on their private affairs. In the resolution of the Governor- " General in Council of the 1st March 1817, it is expressly declared to be " the object of Government merely to save the Honorable Company from the

"expense hitherto occasioned by the absence of their servants from their "stations; but His Lordship in Council will observe from the enclosed state- "ment (No. 3) that the deductions at the end of the year 1824-25 exceeded the "expenses of extra allowances in the amount of Rs. 5,12,460, and this amount "therefore, we respectfully suggest, might be appropriated to the relief of the "Civil Fund. It is apparently impossible so to regulate the deductions to be "made from individual salaries as that they shall precisely meet the extra "expense to which Government is subjected in providing substitutes for the "absentees. But the object of Government, of preserving itself from loss on "account of extra allowances, having been secured, it will not perhaps appear "inequitable that the *surplus deductions may in this manner be restored to the Service "from which it has been declared that it was not the intention of Government to exact "more than the accomplishment of the avowed purpose should demand.*

"Should the Government acquiesce in the justice of this argument, and "bestow upon the Fund the amount of surplus deductions which have already "accumulated, we are induced to hope that the liberality of His Lordship in "Council will also be pleased to authorize that *the annual surplus which may hence- "forth accrue in providing substitutes for absentees* may be allotted towards the "maintenance of the Civil Fund."

23. In other words, the Trustees pointed out that the Fund had become insolvent, and that this was due to the reduced rate of interest, against which the Madras and Bombay Funds had been *guaranteed;* and this was what the Direc- tors had told them in 1824 (see p. 15). They did not, however, ask for such a concession, but confined their request to those sums which Government had virtually promised to restore, and Government acquiesced in the justness of the demand. It answered as follows:—

"The Honorable the Court of Directors having, with reference to the appli- "cation of the Managers of the Civil Fund, dated the 15th of October 1817, "repeated their refusal to give the solicited retrospective operation of four "years to their annual donation of Rs. 2,500 sicca, His Lordship in Council "would not be justified in going the length you propose for the purpose of "removing the embarrassments which press upon the Fund without the "previous sanction of the Honorable Court; but His Lordship in Council has "been pleased to adopt a resolution for the relief of the present exigencies of "the Fund to the following effect

"You are authorized to draw from the General Treasury the sum of sicca "rupees 2,000 monthly, commencing from the 1st proximo, until the orders of "the Honorable the Court of Directors shall be received upon the subject of "your representation.

"The Governor-General in Council is of opinion that the gain of interest "included in the statement of the amount of stoppages on account of leave "of absence furnished with your letter, and stated by the Civil Auditor to "amount to Rs. 1,36,576, is not applicable to the purposes of the Civil Fund. "The principal on which this interest is calculated has not yet been appro- "priated to it, but it will be recommended to the Honorable Court that the "principal amount of the accumulation, being at the end of the official year "1824-25 sicca rupees 3,75,885, be granted to the Civil Fund, and that the annual "surplus in future be also allotted to that institution so long as its annual "receipts may continue, as at present, to be insufficient for the fulfilment of its "obligation towards the widows and children whom it is engaged to maintain.

"*In conformity likewise to the practice observed with regard to the Civil Funds "of Madras and Bombay, the Honorable Court will be solicited to allow* 8 *per cent. "interest on the property of the Fund.*

"His Lordship in Council being of opinion that it would be desirable at "the same time to submit an estimate of the maximum of the growing "demands on the Fund, compared with the annual contributions which may "be expected when the whole of the Civil Servants of this presidency shall "become subscribers under the rule established by the Court of Directors in "1823, you are requested to furnish a document of that description, framed "as accurately as possible, for transmission to the Honorable Court."

24. The information requested in the last paragraph was given by the Managers in the following year, and shows that they understood the 8 per cent. would cover the whole assets. They said:—

"In consequence of the late resolution of the Honorable Court, which "enacts, as a condition of entering their Covenanted Service, that its members "contribute to the support of the Civil Fund, and assuming that the numerical "strength of the Civil Service shall continue as it now stands, we may reason- "ably compute the amount of contribution at sicca rupees 1,08,000, yielding an "excess beyond that now received in the monthly sum of sicca rupees 1,800. "And we beg to add that, should the Honorable Court be pleased to grant an "*interest of* 8 *per cent. on our funds, that the difference of* 8 *per cent. upon our* "*present capital will be Rs.* 13,296, *or sicca rupees* 1,101 *per month.*"

25. The answer of the Directors is dated 1828. They did not take the same view as the Government of India; they granted what the Service did not ask—8 *per cent. on the capital;* but only on certain conditions. They refused what the Service deemed it was entitled to demand—the accumulated deductions of the absentee fund, but they did not deny that they had promised not to retain them. They said:—

"The Managers of the Civil Fund, in their letter to you, dated the 27th "March 1826, submit a statement showing that the demands upon the insti- "tution exceed its annual income in the sum of sicca rupees 12,240 per annum. "The Managers in the same letter observe that the relief to the Fund by the "operation of our regulations granting absentee allowances to Civil Servants "when in Europe will be inconsiderable, the Fund having granted relief to "invalids only as advances.

"We are at a loss to reconcile this observation with the fact that the "statement of the Managers, which exhibits a deficiency of sicca rupees 12,240 "per annum, actually includes a charge to the Fund of Rs. 28,428 per annum "for gentlemen in Europe for health.

"If, as the Managers remark, and as we believe to be the case, relief of "that description has been granted only in the way of loan, this item ought "not to have been included among the regular charges, and if the Managers are "mistaken in their observations, and such relief has continued to be afforded as "donations to individuals, then the Fund will be greatly relieved from future "similar charge by the regulations, which provide that a considerable number "of Civil Servants coming to Europe shall receive allowances from us, and shall "not simultaneously receive anything from the Fund.

"In either case, therefore, the estimate of charges upon the Fund for "invalid servants must be revised. If the charge is omitted, the effect of the "correction will be that instead of the Fund being deficient, as stated by the "Managers, to the extent of sicca rupees 12,240 per annum, it will have a "surplus income of sicca rupees 16,188 per annum.

"We admit that this is a small surplus for a Fund the demands upon "which cannot yet have reached their maximum amount, and that it is desir- "able to adopt suitable arrangements to preserve from future embarrassment "an institution whose objects we so cordially approve.

"Two measures are proposed to us with a view to that object, viz.

"*The grant to the Fund of the past and future accumulations of the allowances* "*of servants absent within the limits of the charter, in excess of the allowances paid* "*to their substitutes; and*

"*The grant to the Fund of difference of interest between* 6 *and* 8 *per cent.* "*per annum.*"

They then went on to give their reasons for rejecting the first proposal, and afterwards added—

"*With respect to the rate of interest,* although we deem it generally objec- "tionable to sanction the payment by the Government of any higher rate than "that borne by the register debt, yet as, *under special circumstances, the Civil* "*Funds at Madras and Bombay receive an equivalent for the difference between the* "*existing rate of interest and* 8 *per cent. per annum, we are disposed to grant assist-* "*ance to your Civil Fund upon a corresponding principle.*

"We therefore authorize you to grant to the Fund simple interest upon "the capital it has possessed at such rate as shall augment the rate received "by the Fund to 8 per cent. per annum from the 15th October 1817, the date "of the former application from the Managers of the Fund; *and we desire that in "future the difference between the interest upon its capital at the rate borne by our "securities* and 8 per cent. be also paid to the Fund.

"From the sum thus payable to the Fund you will deduct the amount "which you have advanced to it, at the rate of Rs. 2,000 per month, pending "a reference to us.

"The sum which will be paid to the Fund under this arrangement, "together with the increased rate of interest now conceded, will, we have no "doubt, be sufficient to meet its present exigencies. We desire to be informed "of the precise amount which you pay to the Fund under these instructions.

"*You will apprize the Managers that this is the utmost extent to which we can "afford the aid of the Company to the Civil Fund. If it should still prove inadequate "to the payment of the annuitants, the deficiency must be met either by a reduction in "the amount of the annuities or an increase in the rate of contribution.*"

26. On the 16th January 1829 the Secretary to Government wrote as follows to the Sub-Treasurer:—"I am directed to transmit, for your information and guidance, the accompanying extract from a Public General letter from the Honorable Court of Directors, dated the 8th April last. For the adjustment of future payments to be made under these orders, you will be pleased to pay the difference between 5 or 6 per cent., as the case may be, and 8 per cent. on the promissory notes or other Government securities standing in the name of the Trustees of the Fund *as the interest may fall due on them respectively, so as to allow 8 per cent. upon its capital.* Further, on the receipt of subscriptions to the Fund into the treasury, you will be pleased to issue 8 per cent. treasury notes, *not transferable, in acknowledgment* of the same, the interest on which may be made *payable half-yearly.*"

On the same day the Accountant-General was addressed as follows:—

"I am directed to acknowledge the receipt of your letter of the 14th instant, "and to forward to you the certificate which accompanied it, in order that it "may be returned to the Sub-Treasurer for the purpose of being cancelled.

"With reference to the adjustment of future payments to be made under the "orders of the Honorable Court of Directors, contained in the 13th paragraph of "their letter, dated the 8th April last, I am directed further to inform you that "the Sub-Treasurer has been authorized to pay the difference between 5 and "6 per cent., as the case may be, and 8 per cent. on the promissory notes "or other Government securities standing in the name of the Trustees of the "Fund as the interest may fall due, *so as to allow* 8 *per cent. upon its capital.* "Further, on the receipt of subscriptions to the Fund into the treasury, 8 *per "cent. treasury notes, not transferable,* will hereafter be delivered *in acknowledg- "ment of the same,* the interest of which may be made *payable half-yearly.*"

Again, on the 6th February 1829, the Secretary to Government addressed the following to the Sub-Treasurer:—"I am directed to transmit, for your "information and guidance, the accompanying copy of a letter from the Acting "Accountant-General, dated 4th instant, together with a copy of my reply of "this date:—

"'*To the Secretary, etc.*

"'Sir,

"'As the most convenient mode of carrying into effect the orders "'of the Honorable Court of Directors, which permit the Managers of the Bengal "'Civil Fund to draw the difference between interest already derived from the "'capital of the institution and 8 per cent. per annum, I have the honor to request "'that you will submit to the Right Honorable the Governor-General in Council "'my respectful recommendation that His Lordship will be pleased to direct "'the cancellation of the 5 per cent. treasury notes at present held by the "'Managers of the Civil Fund, amounting to sicca rupees 1,93,400, and the issue "'in lieu thereof of treasury notes bearing interest *at the rate of* 8 *per cent. per "'annum.*'"

Reply.

"I am directed to acknowledge the receipt of your letter of the 4th "instant, and in reply to inform you that, agreeably to your recommendation, "the Governor-General in Council is pleased to authorize the 5 per cent. treasury "notes therein mentioned to be cancelled, and fresh notes being issued at "8 per cent. per annum, *payable half-yearly, to be given in lieu thereof.*"

27. This closed the correspondence connected with our grant of 8 per cent. interest. I have given it in full because the transaction is one of the most important in the history of the Fund, and a thorough acquaintance with its details is necessary. As read by the letters the whole thing comes to this—

(*a*) The Directors granted *simple* interest at 8 per cent. for the *past* and since 1817, and for the *future* 8 per cent on the *capital* of the Fund.

(*b*) This was granted on the same *principle* as governed the arrangement between the Directors and the Madras and Bombay funds, viz.

(1) That the Directors would secure 8 per cent. in *perpetuity* to the Fund; and

(2) That the debt was to remain the same as if issued in bond, but more in the nature of a *perpetual* loan, not *demandable* except for the purposes of the Fund.

(*c*) That in accordance with *b* (2) the future subscriptions were acknowledged by 8 *per cent. non-transferable* promissory notes with *half-yearly* rests, and some of the 5 per cent. securities then held by the Fund were given up for similar *non-transferable* documents at 8 per cent.

28. Suppose this engagement was construed independently, and without reference to the Bombay Fund, could the Government of India, as it now seems to assert, cancel the arrangement by notice, or get it set aside in a court of equity? Certainly not. This has been expressly decided in the case of the South Lancashire Railway *vs.* London and North-Western (8 ch. ap. 942; 7, Eng. and Ir., ap. 550). In that case two railways entered into an arrangement about running powers, which did not contain the words "in future," and one railway filed a bill against the other to set it aside after *due notice.* Sir W. M. James, Lord Justice, held that the agreement was *not terminable by notice.* He said:—

"I start with this proposition, that *primâ facie every contract* is *permanent and* "*irrevocable*, and that it lies upon a person who says that it is revocable or "determinable to show either some expression in the contract itself, or some-"thing in the nature of the contract from which it is reasonably to be implied "that it was not intended to be permanent and perpetual, but was to be in "some way or other subject to determination. No doubt there are a great "many contracts of that kind,—a contract of partnership, a contract of master "and servant, a contract of principal and agent, a contract of employer and "employed in various modes: all these are instances of contracts in which, "from the nature of the case, we are obliged to consider that they were "intended to be determinable. All the contracts, however, in which this has "been held are, as far as I know, contracts which involve more or less "of trust and confidence, more or less of delegation of authority, more or "less of the necessity of being mutually satisfied with each other's conduct, "more or less of personal relations between the parties."

This decision was upheld by the House of Lords, and among the judgments delivered the following of Lord Selborne puts the matter in a clear light:—

"My lords,—An agreement *de futuro*, extending over a tract of time which, "on the face of the instrument, is indefinite and unlimited, must (in general) "throw upon any one alleging that it is not perpetual the burden of proving "that allegation, either from the nature of the subject, or from some rule "of law applicable thereto. So far as the words go, there is here no limit; and "if any limit, or the power of fixing a limit, is to be implied, it can only be "in one or other of these two ways.

"In the present case the character of perpetuity attaches both the legal "personality of each of the contracting parties, and to the legal character and "use of the subject-matter—the railway; and the objects of the agreement are "favourably regarded by the law; all such companies having express statutory "powers to contract (without any necessary limit of time) for such objects, and "being (in the absence of contract) to some extent always under legal obliga- "tions, actual or potential, of a like general character."

In our case, also, the character of perpetuity attaches to each of the contracting parties—Government and the service; and to the legal character of the subject-matter—assurance; and if the above is good law, the Government, apart from the equities of our case, is not, and never will be, in a position to refuse us the 8 per cent., or to terminate it by notice.

29. The manner in which the transaction is treated by the Government of India in their recent despatch to the Secretary of State is greatly to be deprecated. It is not too much to expect that in laying before the Secretary of State the materials on which he must form a conclusion as to the relation in which we stand towards Government the Financial Department would not be guilty of any serious errors either of omission or commission. The despatch runs thus:—

"4. In 1829, by a despatch quoted in paragraph 11 of the examination, "the Court of Directors granted to the Fund 'the difference between the "'Interest upon its capital at the rate borne by our securities and 8 per cent.:' "in other words, the Court granted, but *in a peculiar shape*,* interest on the "capital at 8 per cent."

"6. * * * with the evident intention of marking the *gratuitous and "voluntary character* of the concessions, the Court had in 1828 insisted upon "the interest in excess of the market rate being shown in the accounts as a "yearly *donation*, and now they prescribed a like course in regard to the "privilege of exchange."

30. There is no despatch at all of 1829; the despatch referred to in paragraph 4 is that of 1828, printed above. What the Directors said was this:—

"(*a*) With respect to rate of interest * * * as under *special circumstances* the Civil Funds at Madras and Bombay receive an equivalent for the difference between the existing rates of interest and 8 per cent. per annum, we are disposed to grant assistance to your Civil Fund upon *a corresponding principle.*

"(*b*) And we desire that *in future* the difference between the interest on its capital at the rate borne by our securities at 8 per cent. be also paid to the Fund."

31. The Government of India, in dealing with this matter, treats the order of 1828 as something independent of, and unconnected with, the Madras and Bombay Funds. It omits all mention of the facts—

(*a*) That the arrangement was only the same as that in force in Bombay, which was 8 per cent. *permanently.* That in 1824 the Directors informed the members in Bengal that they had preserved every *permanent* annuitant of Bombay from fluctuations in exchange and interest, *i.e.* guaranteed them 8 per cent.

(*b*) That the members of the Bengal Service considered this statement to be, as it really was, *a guarantee*, and that the Directors were aware of their views, and, knowing them to be correct, never objected. And even—

(*c*) The words "*in future*," are omitted, so that an ordinary reader would not suppose that the arrangement was *permanent*, while the effect of the whole is heightened by

(*d*) The words "*but in a peculiar shape;*" the peculiar shape being in the ordinary manner, on 8 per cent. notes where this was possible, and where not, as if the notes were 8 per cent. notes.

32. As regards the quotation in paragraph 6, the simple answer is that no such despatch exists. It has not been printed in the Government selections, and

* Italics are not in despatch.

a most careful search in our office has failed to find any trace of, or reference to, it. The arrangement referred to did not take place even in part till May 1833, as may be seen on the face of every certificate issued by Government, and then the voluntary and gratuitous concession theory had no existence; its origin dates from September 1875. The despatch is incorrect in every point:—

(*a*) There were no gratuitous concessions in 1828,
(*b*) There was no difference of opinion, and
(*c*) The Directors did not *insist* on anything.
(*d*) The word *donation* does not occur in any despatch of 1828.
(*e*) The interest was not shown as a *donation*, but in the ordinary way.
(*f*) It was not shown in the accounts *yearly*, but half-yearly.

33. It would be difficult to conceive a greater number of errors in so small a compass. Not one of the assertions is correct, and yet these are the materials on which the Secretary of State is asked to decide. They are, no doubt, the result of accident, but unfortunately, so far as the Fund is concerned, the result is the same as if everything were shaped to support a wished-for conclusion. Some documents are omitted, others incorrectly quoted, others referred to which have no existence—even ordinary facts well known to every member of the Service are distorted. For example, in the footnote to the despatch there is the following sentence:—

"The theory upon which the examination was made, and upon which the "Civil Fund has *for some years* been managed, is that the Government donations "are granted in subsidy of certain *assets* which might be used as the service "thought fit." The words "some years" mentioned above include as a fact every year since 1828.

34. The same errors, if we may so call them, exist in the examination. Thus at page 8 we find:—"It was not till 1817 that the Managers of the "Bengal Fund, unable to find secure means of investment at any higher rate than "6 per cent., made a request for the continuance, as a *privilege*, of the old rate "of interest; and the Directors made the concession in 1828, giving it effect from "1817, the year in which it had been sought."

This in nowise represents the real nature of the transaction. We did not ask for its "continuance as a *privilege*" in 1817, or get it on the basis of our letter in that year. All mention of the Directors' despatch of 1824 and our letter of 1826 is omitted; the fact that the Directors virtually asserted and that we considered the Members in Bombay and Madras were guaranteed 8 per cent. is overlooked. And yet the Government must have been very near perceiving the true nature of the arrangement, as in the next page of the examination there is a *quotation* from the Bombay despatch of 1821. This quotation is imperfect. The portion unfavourable to Government, in which it is said to have given 8 *per cent. in perpetuity*, is omitted; and even the imperfect quotation is incorrectly described. The despatch ran as follows:—

"3. It will appear from those proceedings that the Committee for the "Civil Fund addressed a memorial to the Honorable the Court of Directors, "stating—

"(1) That you had been obliged to vest the money in a Bengal loan, by which you lost Rs. 37,000 on the exchange;
"(2) That you were also obliged to pay a percentage to the public officers in Bengal for acting as your agents;
"(3) That the interest was reduced from 8 to 6 per cent.; and
"(4) That the rate of your remittances to Europe had also become unfavourable:

"grounding your application for relief on the sentiments expressed in the "Madras memorial regarding the reduction of interest and the exchange "between England and India

"4. To that application the Honorable the Court of Directors replied—

"(1) That they would indemnify the Fund from the loss by exchange of thiry-seven thousand rupees;

"(2) That they would allow the money to be transferred to Bombay, where no agency was required;

"(3) That they would secure *eight per cent. in perpetuity to the Fund; and*

"(4) That they established 2*s.* 3*d.* *the Bombay rupee as the permanent rate of remittance to Europe.*

"5. *Those concessions were founded on the considerations stated in the Madras "memorial*, by which the debt due by the Company to the Civil Fund was to "remain the same as if issued in bond, but more in the nature of a *perpetual* "loan, not demandable *except for the purposes of the Fund*, and excluded "from the market and from the financial operations of Government, thereby "diminishing the source of competition; that the Civil Service relinquished "all right to participate *in any increase of interest and exchange which might "hereafter arise, and all future advantages from those sources.*"

In the examination it is referred to as follows:—

"20. The concession asked for was made to both funds, the Directors "stating, in their letter of 9th March 1815, that it was their intention to make "up to the fund the sum which it would otherwise annually lose in consequence "of the reduction of the rate of interest from 8 to 6 per cent. The *details "of the arrangements would be found*, it was said, in the letter addressed to Madras, "copy of which is not before us; but in a letter of the Government of Bombay, "dated 3rd September 1821, *they are thus summarized:*—

"The debt due by the Company to the Civil Fund was to remain the "same as if issued in bond;" but "more in the nature of a perpetual loan, not "demandable except for the purposes of the funds; and excluded from the "market and from the financial operations of Government, thereby diminishing "the source of competition;" and the Civil Service "relinquished right to "participate in any increase of interest or exchange" which might hereafter arise, and "all future advantages" from those sources.

"The arrangement, therefore, appears to have been that the capital was to "stand at 6 per cent., the rate then current, and Government was to make up "separately the difference between that and 8 per cent."

It is to be presumed that para. 4 of the Bombay letter was read before para. 5; it is not given. The considerations given by the Service are set out, but not described as such, and the promises of Government are omitted. This is called summarizing the *details*. The words at the beginning of para. 5, declaring that the Madras officers gave any consideration, have been struck out. This is consistent with the omission of paragraph 4. Finally, the words "the arrangement *therefore appears* to have been, &c.," will be clear proof to the Secretary of State, who does not know the facts and probably has never seen either the Bombay letter or the despatch of 1824, of the interpretation Government puts upon an arrangement the true meaning of which *appears to it* not free from doubt. Such are the State documents and interpretation on which *alone* the Secretary of State is asked to decide.

35. The Fund's Home Agents were Messrs. Cockerell, Trail and Co. They advanced the sums due to the payees in Europe, and the Managers repaid them by bills on the Court of Directors in favour of the Trustees, Messrs. Alexander and Stone, and drawn by Government. In 1829 the Home Agents declined to make further *advances*, but they and the Home Trustees exerted themselves to have the Bengal Fund placed in the same position as the other Civil Funds, and to obtain advances to its agents by bills on the Managers at 2*s.* 4*d.* the sicca rupee. On receipt of this information the Managers lost no time in applying to Government. They asked the Directors either—

(*a*) to undertake the payment of the home charges, or

(*b*) to make such advances to their agents as might be required, in the same manner as is granted to the Madras Fund.

36. These proposals seem to have reached the Directors towards the end of 1830, for in January 1831 the Directors wrote to the Home Agents as follows:—

"In reference to a letter respecting the mode which should be hereafter "adopted to meet the demands in the country upon the Bengal Civil Fund, "I am commanded by the Court of Directors of the East India Company to

"acquaint you that in a despatch recently received from the Bengal Govern-
"ment certain proposals regarding the future payments in England on account
"of that institution have been submitted for the Court's consideration, upon
"which it is their intention shortly to enter; but that in the meantime the Court
"being informed that you have undertaken to make the payments now due to
"the annuitants, have passed a warrant in your favour for the sum of £2,500,
"being the amount of the Court's annual donation to the Fund. As, however,
"the receipt of that sum will enable you to meet all demands without availing
"yourselves of the £3,000 which the Court in November last agreed to make
"upon security, but which you declined to receive upon that condition, the
"Court have directed the warrant which was passed by them on that account
"to be cancelled, which has been done accordingly."

37. The answer of the Court of Directors arrived in 1831, and is dated April the 31st of that year. They said:—

"We must decline to undertake the payment of the pensions of the Civil
"Fund to annuitants resident in England.

"2. We observe that the remittances of the requisite funds to enable the
"Agents to pay these pensions have hitherto been made by means of your bills
"upon us, drawn at 2*s.* 1*d.* the sicca rupee, and much inconvenience has
"occasionally being experienced from the delay and uncertainty attending such
"remittances, in proof of which it has of late become necessary for us to make
"advances to the Agents, taking security for our reimbursement out of the
"proceeds of expected bills.

"3. To remedy this inconvenience we have determined *in future* to make
"advances to the Agents on their bills on the Managers of the Fund in Bengal,
"payable at 2*s.* 1*d.* the sicca rupee, and bearing interest at 4 per cent. per
"annum from the date of the bill until the date of repayment, and you will
"therefore not grant to the Managers in India any bills upon us after the
"receipt of this despatch.

"4. The amount of advances will of course be restricted to the amount
"absolutely required to meet the demand in England, and for this purpose the
"Agents must, upon any application for an advance, produce their account
"current with the Fund *for the year preceding, and a prospective estimate.*

"5. Adverting to the increase of contributions authorized by our despatch
"dated 8th of April 1838, and to the distinct communication contained in the
"16th paragraph of it, 'that this is the utmost extent to which we can afford
"'the aid of the Company,' we cannot consent to grant to your Civil Fund any
"further assistance, either directly or in the rate of exchange, or in any other
"mode."

38. The new arrangement came into force at once, and from 1831 to 1832 the home charges were advanced by the Directors on bills on the Managers at 2*s.* 1*d.* the sicca rupee, and interest at 4 per cent. till the date of repayment; the bills were drawn at sight. Three bills only were so drawn. The nature of the first will explain all three; it is this:—

"10th June 1831.—Cash received from the East Indian Company for our bill on the President and Managers of the Fund, to the order of the Governor-General, payable at sight at 2*s.* 1*d.* per sicca rupee, with interest from this date to day of payment at 4 per cent., £9,000." This was paid in India on—

	Sa. Rs.	A.	P.
7th January 1832, amount of bill £9,000 at 2*s.* 1*d.*	86,400	0	0
Interest at 4 per cent., from 10th June 1831 to 7th January 1832	1,996	12	10
	88,396	12	10

39. This was the condition of the Fund when the famous despatch of 1832 was received, and as Government *now* bases on it a claim to deal with the fund

at will, and asserts that the members of the Service possess no rights, it will be convenient to set it out in full:—

"Our attention has lately been directed to the mode adopted for aiding "the several compassionate Civil and Military Funds in India by the grants of "interest at 8 per cent. per annum on their balances, and of high rates of "exchange, principally at 2*s.* 4*d.* the rupee, in effecting their remittances.

"2. From the statement annexed you will observe that the aggregate "amount expended by us in the support of these funds is £71,020 per annum, "of which only £14,365 arises from direct contribution. The remaining sum "of £56,655 is expended in interest beyond the ordinary rate and in exchange.

"3. The rates of interest and exchange were no doubt formerly justified "by those actually in use in general transactions, but that has long ceased to be "the case. The interest on the registered debt of India incurred of late years "is 5 per cent., and the sicca rupee remitted to England in bullion does not "produce more than 1*s.* 11*d.*, whilst the average outturn of all descriptions of "remittances effected by the Company during the last three years has fallen "below the rate of exchange.

"4. Considering that the objects for which these institutions provide are "servants of the Company in straitened circumstances, their destitute widows "and orphans, we forbear from directing the adoption of any measure which "would have the effect either of reducing the rate of pension and other allow-"ances granted by the several funds, or of throwing on the trustees the charge "and risk of effecting remittance.

"5. Being also of opinion that the aid afforded by the Company should, as "far as possible, be stated as direct contribution, we desire that the rate of interest "upon the balances of all the Civil, Military, and Medical Funds (excepting "only the Civil Service Annuity Fund recently instituted) be reduced to 5 per "cent. per annum from the 1st May next, and that on the 30th April in each "following year the several funds be granted, as a donation from the Company, "a sum equivalent to the difference between the amount to which the grant of "such interest and of interest at the rate now allowed would produce

"6. The advances from our Home treasury to the institutions enumerated "in the annexed statement have of late years inconveniently and largely "increased and are still increasing. In the year 1816-17 they amounted to "£25,366, but in 1830-31 to £1,52,400.

"7. We desire that you will inform the Trustees of the several funds that "we cannot engage to continue to an indefinite extent, either as to time or "amount, a mode of assistance which has so far exceeded what we contem-"plated when it was first granted. For the present, however, we have resolved "that from and after the date of this despatch the sums required in England "for the use of the several funds shall be advanced, repayable in India at 12 "months' date at 1*s.* 11*d.* the sicca rupee, that being fully as high as could be "realized by a consignment of bullion; and we desire that the difference "between the number of rupees reimbursed to you under this arrangement, "and that which would have been reimbursed if the present rates of exchange "had continued to be observed, be annually credited to the funds as a further "donation from the Company."

40. The despatch was forwarded to the Accountant-General of Bengal to carry out, and on the 21st of November 1832 he submitted his plan to the Government of India. He said:—

"I have the honor to acknowledge the receipt of your letter of the 6th "instant, transmitting for my information and guidance copy of a letter* from "the Honorable Court of Directors, dated the "4th July last, relating to the mode adopted for "aiding the several compassionate Civil and Military Funds in India by grants "of interest at 8 per cent. per annum on their Government securities (balances "as per Court's letter), and directing that it be reduced to 5 per cent. "per annum from the 1st of May next, and that on the 30th of April in "each following year the several funds be granted, as a donation from "the Company, a sum equivalent to the difference between the amount

* Despatch of 1832.

"to which the grant of such interest and of interest at the rate now "allowed would produce, and in reply thereto I beg to suggest that the "Sub-Treasurer be directed to cancel on the 30th *April next the* 8 *per cent.* "*treasury notes issued to the several funds under the orders of Government of* 15*th* "*June* 1827, 16*th January and* 6*th February* 1829, *and* 1*st July* 1831, *and to issue* "*in lieu thereof other certificates for treasury notes bearing interest at* 5 *per cent. per* "*annum, and on the* 30*th of April in each following year to credit the several funds* "*with the difference of interest, as directed by the court, charging the same as a* "*donation from the Honorable Company.*

"2. In effecting recoveries in India for advances made in England to "the several funds which the court have directed to be made at 1*s.* 11*d.* per "sicca rupee, I beg to suggest the Sub-Treasurer be *directed to credit the* "*funds* with *the amount of difference between the sum reimbursed under the above rate* "*and that which would have been reimbursed if the rates of exchange hitherto allowed* "*were continued*, charging the same as further donation from the Company."

41. This was approved of by the Government in its letter No. 392 of the 27th November, and in the following words:—

"The Vice-President in Council concurs in the suggestions therein con-"tained, arising out of the orders of the Honorable Court of Directors relating "to the Civil and Military Funds in India. The Sub-Treasurer will accord-"ingly be directed to carry the same into effect."

42. On the 3rd April a further communication was received from the Supreme Government, as follows:—

"With reference to my letter to Mr. Officiating Deputy Secretary Batten, of "the 21st November last, regarding the several compassionate Civil and Military "Funds, I beg to state that, in addition to the special treasury notes at present "held by those funds, investments are made from time to time of the accumula-"ted balance in the hands of the Secretaries, and as the dates of the payments "of interest vary accordingly, I would beg to suggest that the Sub-Treasurer "be directed to pay to the several funds the difference of interest (as directed "in the Honorable Court's letter of the 4th July last) on all future investments "on the dates the annual payments of interest become due (as is observed with "regard to the 5 per cent. treasury notes held by these funds), the Court not "having taken such transactions into consideration."

"2. I have also to solicit that orders be issued to the Sub-Treasurer to "call upon the Secretaries to the several funds to deliver up their special "treasury notes by the 30th instant."

43. The Managers consented to the change, and on the 12th of April 1833 delivered up their non-transferable notes at 8 per cent. to the Sub-Treasurer, in order that he might cancel them and issue 5 per cent. notes in their place; since that time the practice has been to credit with the 5 per cent. the additional 3 per cent. half-yearly.

44. There is nothing in their proceedings to show that the *object* of the Directors was to show the *voluntary and gratuitous nature of the Directors' contributions.* The Fund neither lost nor gained, and the whole result was that the Accountant-General kept his accounts in a different manner. Why this was so will be best seen by calling to mind the position of the Company.

45. When the new charter was discussed in 1813 it was determined by Parliament that the dividends should depend on the commercial profits of the Company. A complete separation was made between the Territorial and Commercial revenues, and the Board of Commissioners laid down rules for the guidance of the Company in bringing to account advances made by one department to the other. The Board of Commissioners said:—

"As the rate of exchange at which the payment in sterling shall be "converted into Indian currency is not provided for in the said Act, "the Board deem it eligible and proper to determine that the exchange "shall be at the same rates which have obtained and been sanctioned by the "usage of Parliament, as well in fixing the salaries and the settlement of "accounts between the public and the Company, as in the accounts which have

"been annually presented to, or brought to the view of, Parliament for a long "series of years, viz.

"2*s*. the current rupee, calculated at 16 per cent. less than the sicca rupee.

"8*s*. the pagoda.

"2*s*. 3*d*. the Bombay rupee."

46. These rules came into force in May 1814, and were strongly objected to by the Court of Directors, who wished that the different coins in India should be reduced according to their intrinsic value; or in other words, the amount of silver they contained. This was refused by the Board in 1816. In this lies the explanation of the exchange allowed to the funds at Bombay and Madras, viz. 2*s*. 3*d*. per rupee and 8*s*. per pagoda, at times when these rates were not in force. The reasons assigned by the Board were as follows:—

"The renewal of the charter was a transaction in which the Parliament and "the British Government were contracting parties with the Company; the only "computation of the value of the Indian coins referred to in the negociation "between the Company and the public or submitted to the consideration of "Parliament were those of 2*s*. the current rupee, 8*s*. the pagoda, and 2*s*. 3*d*. "the Bombay rupee; and the whole arrangement must be understood to have "been concluded upon an admission of the accuracy, for practical purposes, of "that valuation which from long usage even on the part of the Company had "become customary. *On these principles of calculation adjustments of accounts have "taken place, and payments have been made by the public to the Company to the extent "of several millions*, and were they now to be changed the public might claim of "the Company a revision of the accounts already settled, as well as a correction "in all future payments.

"Alienation from the continuance of rates so established by usage could "not be justified but upon the strongest grounds of practical inconvenience; "and indeed the Board entertained some doubts of their competency to sanc-"tion an alteration in a system which for more than 20 years has been in "operation with the approbation of Parliament, and on which the arrangements "of the new charter may be understood to rest."

The letter goes on to show that the rate of exchange did not depend solely on the intrinsic value of the rupee, and added:—

"The objection to the proposition of the Court as it respects the political "branch of the concern, and consequently the practical inconvenience resulting "from it, stands upon strong grounds.

"*The pay of the Civil and Military Service is received in Indian currency "with a full understanding of its relative value to sterling, on rates which custom has "rendered habitual. In the civil the customary rate adopted by the Board is "repeatedly prescribed in Acts of Parliament, and it would be unwise to make an "alteration which might prove the means of furnishing grounds of claim for "compensation.*"

47. The gradual fall in exchange after 1815 rendered matters more and more serious for the Company. In 1824 they again addressed the Board asking that the actual exchange should be taken in transactions between the territorial and commercial branches, basing their claim on the following statements:—

"(*a*) That so long as a higher value was allowed to Indian coins their "accounts were delusive," and further they said—

"(*b*) *The dividend of the Company is by law payable out of their "commercial profits, therefore it is unfair to the proprietors of* "Indian stock, and inconsistent with the law, that those profits, "and consequently the capacity to pay the dividend (without "having recourse to the contingent means of a territorial surplus), "should be liable to be affected by an excessive value of the "coin of India in repayments from the territorial to the com-"mercial branch."

This was without effect, and in 1829 they again returned to the subject, and urged as follows:—

"An example shall be given which will show to your Lordship how the "system works.

"The Company pay annually to the King's Government £60,000 for half-"pay and pensions, of His Majesty's forces serving in India, which sum is by "law chargeable to the territorial revenues.

"The said sum of £60,000 is paid in the first instance out of the Company's "commercial funds in London and the Indian territory repays it with the sum "of sicca rupees 5,17,241, that being the amount in the currency of India at "the rate prescribed by the Board of 2*s.* the current rupee, calculated at 16 per "cent. less than the sicca rupee. The sum of sicca rupees 5,17,241, if "remitted to England, would produce, at the rate of 1*s.* 9·07*d.* per rupee (that "being the average of the aggregate of the Company's remittances from India, "whether by goods, bullion, or Government bills, in the last three years), "£45,409, thereby occasioning a positive loss to the commercial funds upon "this transaction of £14,590."

48. The correspondence on the same subject continued during 1829 and 1830. It gives a complete key to the motives which actuated the Directors in 1832. They found that the home charges had increased from £25,360 to £152,400, principally at 2*s.* 4*d.* the rupee, instead of 1*s.* 11*d.*; or, in other words, there was a drain on their commercial branch of about £32,693 per annum. To avoid the effect of this on their dividends, they adopted the only possible method: they entered the advances in their commercial accounts at 1*s.* 11*d.*, and not at their value to the Fund, *thus throwing the* £32,693 *upon the territorial revenues.*

49. Returning now to the despatch, it will be seen that the modes of assistance referred to in it are directly by a contribution, indirectly by additional interest, and a gain on drafts. In the appendix to the despatch these three modes are set out thus—

The Court's aid, directly and indirectly, to the Bengal Civil Fund may be thus stated, viz.—

	£
Direct donation in England	2,500
Additional interest at 3 per cent. beyond the rate paid on sums borrowed by the Company upon the balance, which in 1826 was about 6¼ lakhs, and calculating the sicca rupee at 2¼*s.*	1,914
Estimated gain on the annual drafts upon the Court of £12,000, which are granted at 2*s.* 1*d.* the sicca rupee at 12 months' date: deducting the interest, the rate is reduced to 1*s.* 11¼*d.*, whereas the produce of the sicca rupee on the average out-turn of all descriptions of remittances during the last three years has been no more than 1*s.* 9·07*d.*, being a difference of 2·68*d.* per rupee, or 11·29 per cent. ...	1,355
Total aid per annum ...	5,769

In the first three paragraphs of the despatch the Directors refer to the three modes of assistance, and in the fourth they decline to adopt any measure which would affect the Fund; in the fifth they direct their officers to keep the public accounts in a certain form; in the sixth they refer to the great increase in the home charges, which reduced their dividends; and in the last, referring to one of the three modes of assistance, they say "inform the Trustees that we cannot engage to continue to an indefinite extent a mode of assistance which has so far exceeded what we contemplated when it was first granted." The only mode referred to in the despatch as having increased is the home charges, and further it is the only mode mentioned in the paragraph; so that whether we look at the motive or the grammatical construction of the sentence, we come to the same conclusion, that paragraph 7 refers only to the home charges.

50. Happily the solution of the question does not depend on conclusions derived from motives, nor on arguments based on grammatical construction. The writers have more than once declared what they meant, and thus have put their meaning beyond the possibility of doubt. In 1852 the meaning to be attached to this despatch came before the Directors, and they answered:—

"In communicating our decision upon the subject of this correspondence, "we must direct your attention to the instructions contained in our circular "despatch in the Public Department, *dated the 4th July* 1832, for reducing "the rate of interest from 8 to 5 per cent. per annum on the balances of the "Service Funds therein mentioned.

"2. *The object of those instructions was to assimilate the rate of interest on the "capital of those funds to that borne by the public debt, and to grant the difference "between 5 and 8 per cent. as a direct boon to the funds.* We neither *intended to "diminish nor increase the advantages conceded by Government to the funds, but to adjust "in the public accounts* the sum properly chargeable for interest, and the remainder "as *a contingent charge* in aid of the institutions patronized by Government.

"3. The common rate of interest on Government securities may now be "considered 4 per cent.; but as the 4 per cent. loan is at present at a discount, "it follows that if the Society's funds were to be invested in that loan, and "Government allowed 4 per cent. in addition to the interest as a contingent "charge, a greater advantage would accrue to the Society at the expense of "Government than we intended or can permit.

"4. It may be *inconvenient to open book debt accounts for the reception* of the "funds of the Service institutions; we therefore consider that the best way of "accomplishing the object of our original instructions is to issue *non-transferable "treasury notes bearing a fixed rate of 4 per cent. interest per annum, for the "capital of the Orphan and other institutions to which Government are pledged to grant "an equivalent to 8 per cent.*, to pay the *interest annually on the notes*, as well as "the annual contingent charge of 4 per cent., and to show those charges "separately in the public accounts."

In short, the Government never intended to increase or diminish the advantages, especially the 8 per cent. to which the Government was "*pledged.*"

51. The same question arose in the year 1854, and was decided in the same manner. The Directors said in their despatch No. 19, dated 30th May 1854:—

"The points which you have referred for our specific instructions are, first, "whether *interest on the capital of* the Bengal Civil Fund, invested in non-"transferable treasury notes, and the donation allowed for the difference between "the interest borne by those notes and *the fixed rate of 8 per cent.*, should not "be paid to the Fund half-yearly, as in the case of the Public Debt; secondly, "for a reconsideration of the request of the Managers of the Military Orphan "Society for an allowance of 8 per cent. interest on the patrimonial property "held in deposit on account of the wards of the institution; thirdly, whether, "in order to prevent a recurrence of the advantage taken by the Managers "of the Orphan Society in disposing of the 5 per cent. notes for the purpose "of investing the proceeds in 4 per cent. paper at a large discount, and "thus obtaining more than the limited rate of 8 per cent. interest, the "Secretaries' capital should not be invested in a book debt of Government.

"2. On the first point it would appear from your communication to "have been the practice hitherto to pay interest and donation *on the capital* of "the Bengal Civil Fund half-yearly, and that to substitute annual payments "would inflict a permanent loss to the Fund of above Rs. 3,000 per annum. "Under this representation, and *in accordance with the principle which we "have already recognized, that in assimilating the rate of interest on the capital of "Service Funds to the rate borne by the Public Debt we neither intended to diminish "nor increase the advantages conceded by Government to the Fund, be continued to be "paid half-yearly.*"

52. In pursuance of this despatch the following resolution was passed by the Government of India:—

"Read a despatch from the Hon'ble the Court of Directors, No. 19 of 1854, "dated the 30th may, replying to the letter from this department, No. 45, dated "the 29th July 1853, in respect to the best mode of allowing interest and dona-"tion to the Bengal Civil Fund and to the Military Orphan Society.

"On the first point it would appear from your communication to have been "the practice hitherto to pay interest and donation on the capital of the Bengal "Civil Fund half-yearly, and that to substitute "annual payments would inflict "a pecuniary loss to the Fund of above Rs. 3,000 per annum." Under this "representation, and in accordance with the principle which we have already "recognized, that in assimilating the rate of interest on the capital of the "Service Funds to the rate borne by the Public Debt "we neither intended

" 'to diminish nor increase the advantages conceded by Government to the " 'Funds,' we accede to the request of the Managers of the Bengal Civil Fund " that interest and donation on the capital of the Fund be continued to be paid " half-yearly.

" The Hon'ble Court in this paragraph, having acceded to the request of " the Managers of the Bengal Civil Fund that interest and donation on the " capital of the Fund shall be continued to be paid to it half-yearly—

" Ordered, that a copy thereof be forwarded to the Managers of the Bengal " Civil Fund for their information and guidance, with advertence to the papers " referred to, and further that a copy of the same paragraph be transmitted " respectively to the Officiating Accountant to the Government of Bengal and " the Sub-Treasurer."

53. The foregoing correspondence is most important: it shows that in 1854, four years after the change in 1850, the Directors considered themselves *pledged* to grant 8 per cent. as a '*fixed rate*' *on the capital of our Fund*, and thus determines the nature of the transaction in 1832. It was simply an expedient to get rid of a burden by a different mode of entry, and was never intended to throw any cloud on the title of the Fund to the contribution paid by the Directors in the shape of interest. It is to be regretted that no reference to these despatches or the subsequent Resolution can be found in the different despatches issued by Government, no hint to show that Government knew of their existence; while the only *one* despatch capable of being interpreted adversely to the Fund appears in full force. And yet there is evidence that Government must have been aware of the existence of that of 1852. It is referred to, but not quoted in support of Government at page 16 of the examination, viz. as *fixing the donation* at 4 per cent., and further express reference is made to the Government order passed on this despatch in *every certificate* which issues from the Financial Department, and in the following words,—" *Vide* orders of Government dated 27th November 1832, and 6th " April 1833, and *9th December* 1852."

54. Let us now examine the different views which have been held by the Government of India since 1871, when, as appears from paragraph 13 of the despatch, the Government began to manifest a " complete understanding " of the conditions of the problems with which they were dealing," and to " recognize the long-continued oversight, misunderstanding, or negligence of " Government."

In 1871 the Government said, when examining the Bombay Civil Fund,—

" In 1832 the Directors, in their " despatch No. 46, dated 4th July, " directed that the rate of interest upon " the balance of all the funds (excepting " the annuity funds) should be reduced " to 5 per cent., and that the difference " between that rate and the rate actually " allowed at the time should be shown " as a donation. *This of course changed " nothing, but merely directed things to be " regarded in a certain light.* Five per " cent. was the legitimate price which " the Directors should pay for the use " of the money, and the extra 3 per " cent. was a pure donation."

And when examining the Bengal Fund in 1872—

" *It will be seen that the despatch in- " volved no alteration in the constitution " of the funds or in the amount of aid " they desired from Government. It " merely directed that the aid be shown*

REMARKS.

Correct, except the words " a pure donation." This error arises from the fact that the Government of India apparently was ignorant of the contract with the Bombay Service; at least it is not once referred to in the history of the Bombay Fund. The Government of India's history begins at 1824, three years after the contract was interpreted, viz. in 1821.—*See* examination of the Bombay Fund, page 8, paragraph 3.

Correct. The Government of India had now become aware of the interpretation of the Bombay agreement in 1821, and quoted it, *but incorrectly:* it *omitted* the part favourable to the

Fund *accounts* and *unfavourable* to Government.—*See* page 9, paragraph 20 of the examination of the Bengal Fund.

When the despatch of 1832 was sent to Madras paragraph 6 was omitted, thus changing its meaning: and this view of the Madras men was antorior to 1852. At any rate it does not affect us, who so far back as 1826 looked on the arrangement as a guarantee, and the Directors knew our opinion.

Government has declared itself "pledged" to give 8 per cent. as the "fixed rate" to be paid "in future;" knows we entered on the arrangement looking on it as a guarantee, as it really was; has received our subscriptions on that basis; has made us covenant to subscribe on that basis; has audited our accounts for 50 years on that basis; has passed actuarial calculations on that basis; and under the impression that 8 per cent. was guaranteed we have paid away thousands on thousands of pounds and contracted to pay others. Government's legal right to *stop* its contributions may well be doubted.

Wholly incorrect. The donation was given on condition we excluded members dismissed and suspended; the interest on condition we deposited our subscriptions in the nature of a perpetual loan not demandable save for Fund purposes.—*See* paragraphs 8, 9, and 27.

Wholly incorrect. The Directors in 1852 and 1854, and the Supreme Government in the latter year, repudiated the construction now put on the despatch of 1832.—*See* paragraphs 50, 51, and 52.

No reference is made to the despatches of 1852 and 1854 in the present letters of the Government of

"*in a particular manner—a manner rather*
"*clumsy and circuitous.*"

And in dealing with the Madras Fund in 1874—

"*Of course it was perfectly understood it*
"*could not fail to be after the distinct declar-*
"*ation of the despatch of* 1832 *that special*
"*interest at* 8 *per cent. was not guaranteed.*
"The Trustees of the Madras Fund have
"had this fact more than once before
"them." For instance, *see* Proceedings of 1841, page 946, where they write—

"The Actuary may, it is apprehend-
"ed, assume the rate of interest at 8 per
"cent., for though not guaranteed the
"Trustees hope it is not likely to be
"diminished."

And in the Bombay despatch, dated 8th October 1875,—

"Moreover we attach the greatest
"importance to the absolute legal
"right of Her Majesty's Government
"to stop at any moment, at its dis-
"cretion, the whole of the concessions
"now made to the several Covenanted
"Civil Funds. We have, indeed, no
"present wish to withhold from the
"funds such aid as may be necessary
"to enable them to fulfil with liberality
"the laudable objects with which they
"were founded.

"But the whole tenor of the corre-
"spondence and transactions which
"resulted in the various concessions
"made to the funds was that of soli-
"citation on the part of the Services
"for privileges of various kinds in sup-
"port of the charitable objects of their
"funds, and the grant of *donations*, in
"a carefully guarded form, by the
"Government.

"In case, however, any formal and
"technical evidence is wanted of the
"nature of the relations between the
"Government and the Services in res-
"pect to these *funds*, it should not be
"forgotten that as far back as 1832
"the Court of Directors wrote (No. 46,
"dated 4th July)—

"We desire that you will inform the Trustees of
"the several funds that we cannot engage to continue
"to an indefinite extent, either as to time or amount,
"a mode of assistance which has so far exceeded
"what was contemplated when it was granted."

"The position thus clearly asserted
"was not then disputed, and nothing
"has since been said or done by the

India or in the examination. Neither the despatch of 1854 nor the correspondence connected with it has even been printed in the collection of original papers published by Government for the information and guidance of the Secretary of State in this discussion. The idea that Government is not liable is founded on a *mistake.* Apart from the despatch of 1824, the Directors in those of 1852 and 1854 admitted that they were pledged to grant us *the fixed rate of* 8 per cent. on the capital of our Fund.—*See* paragraph 53.

"Government to weaken it. It is in "our judgment of vital importance "that no admission be now made or "proceedings countenanced which can "in any way compromise the fundamental principle which thus underlies "all our relations with the Civil Funds. "*Whatever concessions the Government "may, from motives of liberality or policy, "have made or continue to make in regard "to these funds, it should be clearly understood that the continuance of such concessions is at least so far voluntary that the "Government is bound thereto by no legal "obligations.*"

The word "treasury" does not once appear in the despatch: the paragraph does not refer to the interest at all, but only to the Home advances.—*See* paragraphs 49—53.

And in the despatch on the Bengal funds, dated 28th October 1875,—

"In 1832 the Court of Directors "became alarmed at the increasing "demands made upon *the treasury* on "account of the privileges granted to the "several service funds, and the Managers of the Bengal Civil Fund were "warned, with the rest, that the Court "could not engage to continue to an "indefinite extent, either as to time or "amount, a mode of assistance which "had so far exceeded what had been "contemplated when the Court first "granted it."

There is no such despatch. There is not a single statement in this sentence correct.—*See* paragraphs 27—34.

"*With the evident intention of marking "the gratuitous and voluntary character of "the concessions, the Court had in* 1828 "*insisted upon interest in excess of the "market rate being shown in the accounts "as a yearly donation:*

"And now they prescribed a like "course in regard to the privileges "of exchange.

This taken by itself, and apart from what goes before, is correct: it simply means that Government changed the form of the *public accounts.*

"From the 4th July 1832, the date "of the despatch No. 46 of 1832, the "sums required for the use of the "several funds in England were to be "advanced from the India Office, repayable in India, at twelve months' date, "at 1*s.* 11*d.* the sicca rupee = 21·5625*d.* "the Government rupee; and the difference between this rate and the rates "at that time enjoyed by the several "funds was to be annually credited to "the funds as a further *donation* from "the Company."

55. It is quite clear that the Government of India has not held out the same interpretation of the despatch to the different Funds, and that its declarations have considerably changed since 1871. *The only point on which they agree is that they omit all reference to the interpretation put upon it by the Directors.* In 1871 and 1872 the despatch changed nothing. In 1874 it meant a plain

open denial of a guarantee. In 1875 it was the keystone on which everything depended, not merely a denial of a guarantee, but a clear and convincing statement that the members of the Service had no legal claim at all; were simply recipients at the will of the State. All, however, that is now necessary to point out is that the Government has never, so far as appears in the despatches, attempted to find out the meaning of the despatch of 1832 by comparing it with other documents, but has interpreted it differently on different occasions.

56. After matters settled down in 1833 the working of the Fund proceeded quietly. Now and then we find the Directors striving to interfere, but their interference is quietly set aside. Thus in 1835 they declared, as regards Mr. J. C. C. Sutherland, that he "has not by the loss of our Covenanted Service "forfeited any of his rights as a subscriber to the Bengal Fund, in respect of "which he is to be considered as if, at the date when he ceased to subscribe to "the Fund, he had voluntarily relinquished the Service." A general meeting, admitted this gentleman, but the subscribers refused to be bound by the meeting and set the admission aside. In 1836 Mr. Elliott petitioned the Court against a decision of the members of the Service excluding him from the benefits of the Fund, and closed his petition as follows :—

"*I am not aware of the precise extent of the authority which the Court of "Directors exercises over the Civil Fund*, nor would I now solicit at their hands "a positive command reversing an order of its members; but I feel assured "that nothing more is required than a strong expression of their opinion "to ensure a revision of the unjust sentence of dismissal pronounced against me "in consequence of an unfounded misrepresentation of the circumstances of the "case, which, owing to the absence of myself and friends, remained uncontra-"dicted till the vote was passed."

57. It may be safely assumed that if the petitioner, who was a member of our Service, could not point out in what manner the Directors' possessed jurisdiction, that none existed; and this apparently was the opinion of the Directors, who forwarded Mr. Elliott's petition under cover of the following despatch :—

"We have received from C. Boileau Elliott, late of the Bengal Civil "Service, a letter, dated the 1st September 1836, submitting to our notice and "requesting the expression of our opinion upon a statement of facts connected "with the contingent claim of his family upon the Civil Fund of that "presidency.

"2. From Mr. Elliott's representation it would appear that his claim, "having been substantiated by the required payment on his part, recognized "by the constituted agents of the Fund in London, ratified by the Managers "in Calcutta, and thereupon declared to Mr. Elliott by the agents in London "to be valid, has been lately impugned, and after an interval of nearly three "years entirely annulled.

"3. We forward herewith a copy of Mr. Elliott's letter, which we desire "may be brought to the notice of the Managers and Trustees of the Civil "Fund at Calcutta, with a view to the reconsideration of the case. We "shall only remark that from the statement before us Mr. Elliott would seem "to have been subjected to an unlooked for disappointment in the reversal, "after a considerable interval, of a decision deliberately pronounced and "officially communicated.

"4. You will require the Managers to communicate to you the result of "such proceedings as may be adopted on this occasion. With such result you "will make us acquainted."

58. But without result. The Service refused Mr. Elliott admission, and declined to re-open the question, on the ground that the opinion of the majority of the subscribers was final on all matters connected with the Fund. The Managers answered:—

"We have the honor to acknowledge the receipt of your letter of the 15th "February last, transmitting, for consideration and report, a copy of a despatch "from the Honorable the Court of Directors to the address of the Governor-"General of India in Council, dated the 28th September, with its enclosure, "regarding the claim of Mr. C. B. Elliott, late of the Civil Service, on the "Civil Fund.

"In compliance with the instructions of the Honorable Court, we have "carefully reconsidered the case of Mr. Elliott, and we further submitted it to "a general meeting of the subscribers held on the 24th instant. As it appears "that the case was decided at a general meeting of subscribers held on the "25th January 1836, and that the decision was confirmed at a subsequent "general meeting held on the 25th April 1836, and also as it appears that "under article 30* of the Fund resolutions thus passed 'shall be final and "'conclusive in all cases whatever,' *it does not appear that any authority exists "competent to alter the decision thus solemnly and regularly passed.*"

59. The position assumed by the Service in 1836 was never questioned by the Directors. It is true that from time to time, between 1836, and 1854 those members of the Service who deemed themselves unfairly treated appealed to the Directors, who often went so far as to direct that the Managers should place the question before the Service, but they never attempted to question the vote of the majority. Thus in 1850, when the Fund's rules were materially changed, some of the members refused to accept the new rules, and petitioned the Court of Directors against the vote of the majority of the subscribers, and asserted that their action was *ultra vires.* Among the discontents was one Mr. Bowring, whose memorial the Court of Directors answered in 1851 as follows:—

"Mr. Bowring is opposed to the alterations which have lately been made in "the regulations of the Bengal Civil Fund, and considers that as the consti-"tution of the Fund has been entirely changed by those alterations, he ought to "have the option of withdrawing altogether from it, or of remaining a "subscriber to the Fund as previously constituted.

"2. The revised regulations appear to have been adopted after due "notice by a large majority of the *subscribers who voted on the question, the "numbers being* 297 *to* 42 *against the application of those* rules to himself. "Mr. Bowring has appealed to the Managers of the Fund, and also to your "Government without success. *The Managers considered that he was bound by his "covenant to subscribe* to the Fund and to contribute according to the regu-"lations duly passed by a majority of the subscribers, and that they had no "power to interfere in the matter, and you directed Mr. Bowring to be "informed that it was not customary for the Government to interfere in the "internal arrangements of the Fund, and *you will inform Mr. Bowring that we "cannot interfere in the matter.*"

60. This case is very important in more points than one. It not only shows that the Directors knew they could not interfere, even where the matter in dispute was the binding effect of their own covenant. What they said amounted to this—"Your covenant binds you to subscribe to the Fund, and by its rules "the voice of the majority is decisive. You are therefore obliged to abide by "their votes: we cannot help you."

61. So far, then, as the Court of Directors is concerned, the question is devoid of difficulty. It only remains to see whether the Secretary of State,

* "It is further hereby declared that the resolution of a second general meeting of the subscribers to this Fund, regularly held under the rules now established, or which may be hereafter established for it, and confirming the resolution of a former general meeting, shall be final and conclusive in all cases whatever."

rightly or wrongly, has ever asserted the contrary. In answer to a memorial from the members of the Service in 1862, he said:—

"It only remains for me to convey to you the decision of Her Majesty's "Government as to—

The Bengal Civil Fund,
The Madras Civil Fund, Charity Branch,
The Bombay Civil Fund, Provident Branch.

"*There appears to be no ground for making any change in the management* "*of these Funds, which will consequently, as heretofore, remain with the subscribers.* "In regard to the assistance from the State, Her Majesty's Government have "*no intention of withdrawing the aid which has been hitherto granted, and they see* "*no reason for increasing it.* If the subscribers prefer it, there would apparently "be no objection to granting, in lieu of the present indirect aids, an annual "sum equal to the average of the donations during the past five years, the "future interest on the balance of the Funds being in that case fixed at 5 per "cent., and the remittance of the sums required by the Funds in England "being made at the same rate of exchange as that fixed annually for the adjust-"ment of transactions with the British Exchequer."

62. It is therefore clear that up to the present no Government has ever been allowed to exercise any authority as such in Fund matters. The members of the Service have ever been, as it is to be hoped they ever will be, attentive to any wish expressed by the Home Government, but both sides have understood their relative positions, and since 1836 there has been no case of the Government claiming any right to interfere in the management of our Fund.

The attitude assumed by Government towards the Bengal Fund has always been influenced by a desire to avoid all responsibility as regards its solvency. From the beginning the policy of the successive Governments in Fund matters may be summed up in the following words:—"We give you "certain assistance: we disclaim all responsibility, as we cannot effectively "interfere." Nor were they inclined to incur responsibility arising from the acceptance of the shadow, and not the reality. Two despatches—one in the beginning of the Fund's existence, the other a few years back—will illustrate this view. Thus in 1833 the Directors wrote with reference to the Madras Fund as follows:

"While we approve of your being kept informed by the Trustees of *any* "*alterations adopted* in the rules of the Civil Fund at your presidency, we do "not see it necessary that your sanction, or our own, should be given to them, "as the *Trustees continue alone responsible for the* management of that branch of "the original institution."

Again in 1867 the Secretary of State, referring to a rule proposed by the members of the Bombay Fund, and forwarded to him for sanction by the local Government, said:—

"2. The rule was proposed by the Trustees and recommended by you for "adoption in your Financial letter, dated the 20th June 1867, No. 24, and is "consistent with the principle laid down by Sir Charles Wood's financial "despatch, dated the 22nd of September 1865, No. 75.

"3. As the Government is not responsible for the solvency of the Civil "(Provident) Fund, any alteration in the rules affecting its *financial position* must "emanate from the subscribers, and any interference on the part of our Govern-"ment does not appear to be called for."

63. On the other hand, the assent of the Directors or the Secretary of State to any particular rule, either directly or indirectly, prevented the question being re-opened, and as a matter of prudence it was often advisable for the Fund to seek such assent. Once given and acted on by the Service, the matter was final, on the general principle that both the Service and Directors were estopped by their conduct from denying the validity of the rule, even though they had acted on an erroneous supposition. This cannot be better illustrated than by the following extract from the judgment of the Privy Council in the case of the East India Company *vs.* Andrew Robertson and others, in which this very question arose in connection with the Madras Annuity Fund.

" It was also argued on the part of the Company that their conduct " and the conduct of the Trustees throughout proceeded upon a mistaken supposi- " tion that the original rules of the Fund, resting upon the Bengal rules, required " this excess to be refunded, and that they ought not to be bound by conduct " resulting from such a mistake.

" It would perhaps be a sufficient answer to this argument to say that there " is no Bill to rectify any such supposed mistake; but their Lordships do not " desire to rest their judgment upon so narrow a point.

" *Supposing the case to be entirely open upon this point, could the Company, " and could the Trustees under the circumstances of this case, be relieved from the " consequence of this alleged mistake? Their Lordships are of opinion that they " could not.* They think that it would be an answer to such a case of alleged " mistake that, when the Trustees made the representation as to the refund " of the excess which is contained in the rules of 1838, and when the Company " sanctioned that representation being made, they had possession of all the " documents, and the full means of judging whether the Bengal regulations " did or did not give the right of refund; and further that, whether the " Bengal regulations did or did not give that right, the Company had the power " of determining whether it should or should not be given at Madras; and " yet further, that the conduct of the Company and of the Trustees has altered " the position of the subscribers. They think also that if this case was at all " to be dealt with upon the footing of mistake, it would follow that the " contract must be wholly undone and the parties be restored to their " original rights, and that the conduct of the Company has placed the " subscribers in a position in which they cannot be restored to those rights. The " subscriptions which have been paid beyond what ought to have been paid " might indeed be refunded, but the parties could not be set right as to the " period when they would not have taken the annuity. *It is hardly necessary " to add that the case appears to their Lordships to be more strong against the Company " from their having been parties to the contract and having bound their civil servants by " covenant to the observance of it.*

" Upon this second head of the case, therefore, their Lordships are of " opinion that the Company, though not bound by any positive alteration of the " rules, *are precluded by their conduct* from disputing the right of the respondent " to have the excess of his subscriptions beyond the half-value of his annuity "refunded to him "

And so with regard to all the changes in our Fund which have been assented to by the Directors or Secretary of State, they are binding both on the Fund and Government: *whether they have been made under a mistake or not is indifferent.*

64. The following conclusions may be drawn from this correspondence:—

(*a*) That the successive Governments have been perfectly aware that they possessed no authority as such in the Civil Fund.

(*b*) That their obligation only extended to performing their promises.

(*c*) That they were in nowise responsible for the solvency of the Fund.

(*d*) That they were cautious in sanctioning any rule, lest they might incur any responsibility for its solvency.

65. This position being firmly seized, there is no difficulty in dealing with the following paragraphs of the Bengal despatch, which have been written as an introduction to support Government interference:—

" For the proper management of any Mutual Insurance Fund, such as " the Indian Covenanted Civil Service Family Pension Funds, it is absolutely " necessary to maintain the Fund exactly in equilibrium, that is to say, to take " care that the assets are always as nearly as possible exactly equal to the " liabilities. If at any time the assets are left in excess of the liabilities, " injustice is done to the existing members of such a Fund; if the liabilities " are in excess of the assets, injustice is done to their successors.

"This obligation of maintaining an equilibrium of assets and liabilities "gains additional force when, as is the case with the privileged branches of "the Indian Covenanted Civil Service Family Pension Funds, a Fund is aided "by the grant of privileges proportioned to the assets of the Fund. For in "such a case, if the assets are allowed to remain in excess of the liabilities, "injustice is done, not only to the existing members of the Fund, but to the "grantors of the privilege; and if the liabilities are allowed to remain in "excess of the assets, a double injustice is inflicted upon succeeding members; "for the Fund loses a portion of the privileges to which it is entitled, and this "loss, with the deficit produced by the insufficiency of the assets of existing "members, is left to fall eventually upon their successors."

66. The answer is, that whether right or wrong, it is a matter with which Government has nothing to do, and in which we desire no interference; as heretofore we shall be happy to listen to suggestions from Government as from any other well-wisher, and ask its sanction to new rules if we deem it necessary; but to allow the Government *any right* to interfere in Fund matters would be opposed to the Fund's history from the beginning. and destructive of our independence. Far better that we should dispute among ourselves about a surplus, and keep it, than to allow Government to interfere and remove the cause of our dispute by appropriating the surplus.

67. After 1832 all correspondence between the Fund and the Court of Director, ceased for several years. The Managers turned their attention to placing the accounts on a more satisfactory footing. The manner of accounting was as follows:—

The Civil Auditor made the necessary deductions from the salary bills of members, the amount of those bills when paid were entered in the Treasury accounts as a charge *in full*, and the subscriptions were at the same time credited on the opposite side to the Fund. In the mofussil the Collector drew a draft on the Sub-Treasurer for the aggregate of subscriptions credited by him in the *previous* month (charging "Civil Fund" and crediting "bills payable" with the same), which draft was remitted to the Treasurer of the Fund. After the process of acceptance in the Accountant-General's Office it appeared as a credit in the Sub-Treasurer's books to the "Managers and Trustees, Civil Fund." The aggregate amount of all such credits, together with credits which were directly made in the Treasury books as from salaries paid *here*, less the charges of the Fund for the month, were on the 1st of the succeeding month invested in a treasury note bearing interest *from that date* at 5 per cent.

In 1840 the Managers addressed Government on the unnecessary complexity of these arrrangements, and urged against the system then in force that it entailed a great deal of trouble on the offices of the Collectors, Accountant-General, Sub-Treasurer, and the Fund, and sometimes loss to the subscribers, and asked for a more simple arrangement. They said:—

"The chief objection in the eyes of the management, however, is that the "system provides but a *slow means of realizing the Fund's subscriptions, and as the "Fund receives 5 per cent. directly and 3 per cent. indirectly, in all 8 per cent., on all "subscriptions from the moment of* their being invested in treasury notes, it will "be seen that it is a very great object to the Fund that its realizations should "be effected as expeditiously as possible.

"The plan which we beg permission to propose is as follows:— That, as "the deductions of subscriptions are made in the offices of audits, the Fund "might easily obtain an audit in its favour for all sums so deducted; and that "a statement thus attested by the Civil Auditor might be handed over to the "General Treasury (of the amount to be credited to the Fund), and by this "means the more *complete* and earlier credit of all subscriptions would be "ensured.

* * * * * *

"We also beg that the same indulgence which we understand has been "lately granted to the Military Orphan Institution, of receiving interest on its

"investments from the 1st of the month in which the amount forming invest-
"ment is received by the Sub-Treasurer, may be extended to this Fund. We
"solicit further that this measure may be allowed to have effect as upon the
"net amount of balance on the 31st of March last, and as upon that on the
"30th instant."

68. This letter was forwarded by the Supreme Government to the Court of Directors for consideration, and these gentlemen, as sometimes happened when the Fund's Trustees required something, were slow to reply. In 1843 the Managers, despairing of an answer, entered into arrangements with the Government, by which the subscriptions paid into Collectors' and other treasuries in the interior would be no longer required to be remitted to the Treasurer, but a general monthly statement of all subscriptions would be brought monthly to credit in the various treasuries throughout India. Statements would be prepared from the accounts received in the Revenue and other departments and submitted to the Accountant-General, who would attest the same, and, deducting the month's charges against the Fund, would sanction the net amount as a credit, with accruing interest from the first of the month. This plan took effect from 1843, and existed for many years: it greatly simplified the process of account; saved trouble to the Sub-Treasurer and Collectors, and benefited the fund in a more regular investment of its balances.

69. In 1849 the Accountant-General of Bengal proposed to assimilate the mode of keeping the accounts in Bengal to those followed at Bombay and Madras, and suggested the followng to the Managers:—

"1*st*. To abolish investments of the assests of the Fund in treasury
"notes.
"2*nd*. To substitute entries in account.
"3*rd*. To furnish the Fund with the statement which it has hitherto
"received directly from the General Treasury, Agra, &c.
"4*th*. To adjust half-yearly its entries by an abstract statement."

70. This proposal was discussed at a meeting of the Managers held on the 27th of July, and the proposition was approved of on the understanding that the Fund should *suffer no diminution in its income from interest accruing on capital and subscription*, nor incur any additional expense in consequence of the new arrangement; a letter to the same effect was despatched on the 7th of August. The Secretary said:—

"In acknowledgment of your letter of the 26th June last, I am directed by
"the Managers to state that they are prepared to acquiesce in the arrangements
"you propose as regards the substitution of credits in account in the place of
"investing the funds of the institution in treasury notes as heretofore. This
"will be on the clear understanding that the Fund is to suffer no diminution
"in its realizations of interest from its balances and from its current subscrip-
"tions, nor to incur any expense in consequence of the new arrangements.

"It appears to be intended that the invested assets existing at the time
"when the proposed scheme may come into operation shall be converted into
"a credit in account: it is therefore desirable to know how this will be
"effected with reference to the various dates which the treasury notes will
"bear."

71. The Accountant-General answered on the 20th November, and pointed out that the Fund would suffer no loss:—

"I have the honor to acknowledge the receipt of your letter of the 7th
"August last, and in reply to state that in the event of the proposition referred
"to in my letter of the 26th June preceding, relative to the investments of the
"assets of the several Service Funds of this presidency, meeting with the
"sanction of Government, the treasury notes belonging to the Civil Fund
"will be required to be surrendered to the Sub-Treasurer on the 30th April
"next for cancellation by him and transfer of their amounts, together with
"interest at 5 per cent., and 3 per cent. donation up to that date, as a book
"debt in the General Treasury accounts for May 1850. The aggregate sum
"thus transferred, together with such subscriptions as may have been realized,
"but not invested, up to the 30th of April, with the interest that may be due

"thereon to the same date inclusive, will form the balance of the Civil Fund "on the 1st May 1850.

"I annex statements showing in what manner the interest on the balance "of the Fund on the 1st May 1850, as well as on the future monthly subscrip- "tions, will be calculated in this department. On reference to these returns "it will be seen that the Fund will not suffer any diminution in its realizations "of interest from the contemplated change. It will also be observed that "interest at 5 per cent. and 3 per cent. donation will be allowed to the Fund "monthly on the total subscriptions realized, and that the same rate will be "charged to the Fund on payments made from the General Treasury on its "account during the relative period, this process being in principle similar to "that now pursued in the adjustment of interest due to the Fund. At present "the assets of the Fund are invested in treasury notes bearing interest at 5 per "cent., the 3 per cent. donation being issued simultaneously with the half- "yearly payments of 5 per cent. interest. But these notes are issued for the *net* "monthly receipts, or, in other words, for the amount of subscriptions realized "in any one month, less the charges incurred in that month; so that when the "system of investments in treasury notes is set aside under the proposed "change, the Fund will lose nothing by paying interest on payments made on "its account, as it will receive interest on the gross realization instead of on "the net amount, as at present.

"With regard to the last paragraph of your letter under reply, I am at "present unable to state the precise date on which the half-yearly statements "therein mentioned will be furnished to your office from this department; but "no delay will be allowed to occur in the preparation and transmission to you "as soon as the requisite information has been obtained, which it is expected "will not be later than March for the realization of the previous six months "ending 31st October, and September for the six months' receipts ending 30th "April."

72. The arrangement, slightly modified, came into force from the 30th of April 1850. All net receipts of the Fund accruing from subscriptions at the old rates realized up to 30th April 1850 continued invested in treasury notes bearing interest at 8 per cent. per annum; and *all* receipts after that date, as well as the additional subscriptions accruing under the new rules previously, were kept in form of a 'book debt' account, wherein the ordinary subscriptions bearing interest at 8 per cent. were distinguished from the additional sub- scriptions bearing interest at 5 per cent.

73. The description of this arrangement given in article 3, page 12 of the examination, is as follows:—

"By 1851 the normal interest had been, as they said, reduced to 4 "per cent., and so that should be shown as the charge for interest, and the "rest should be shown as donation. But in *order to prevent* the Managers "investing the capital *in* 4 *per cent. securities, which were then at a discount,* "*and thus getting more than* 4 *per cent.* on it, that is, more than 8 per cent. "on the whole, a book debt was opened, and the Managers were *obliged to* "*credit all* their ordinary capital to it, receiving non-transferable treasury notes "at 4 per cent. for their accumulations."

The members of the Service can judge the accuracy of this paragraph. We were not *obliged* in 1851 to change our accounts, nor was it done to prevent us investing at a *discount*. The Government of India is perfectly aware, from inquiries it made in 1859, that our Managers *never* invested at a discount. *See* p. 104.

74. Since that year our mode of accounting with the Government of India has not been changed, and then, as now, we receive 8 per cent. on the capital of our Fund in the ordinary branch, and the effect of this was well known to this Government.

75. It has been already pointed out in paragraph 49 that in 1832 the Court of Directors published their contributions in every shape as an appendix to the

despatch of 1832. In 1832 they furnished Parliament with a similar statement, of which the following is an extract:—

	Annual contribution	To make up interest on invested capital to 6 or 8 per cent. per annum	To make up interest on current balances to 8 per cent. per annum.	Difference of exchange between 1-11 and 2-4 per sicca rupee on account of bills drawn in repayment of advances by the Court.	Total
Bengal	Co.'s Rs.	Co.'s Rs.	Co.'s Rs	Co.'s Rs	Co.'s Rs
Civil Service Annuity Fund	2,85,918				2,85,918
Bengal Civil Fund		58,566	..	25,095	83,661
Bengal Military Fund	24,000	3,14 866	.. ..	1,57,794	4,96,660
Bengal Orphan Society	..	28,846	..	48,360	77,215
	3,09,918	4,02 278	.....	2,31,258	9,43,454

76. It will be seen from the third and fourth columns that, as in 1824, 1829, and 1832, so in 1852, the Directors were well aware that they were paying 8 per cent. interest, not on any definite portion of, but on the whole capital and subscription of the Civil Funds; and, viewing this in the light of the despatches of 1852 and 1854, it is beyond all doubt that the Directors pledged themselves to pay *a fixed rate of interest—8 per cent.—on the capital and subscriptions of one Fund; that they had so paid from the beginning, and the idea of only paying on a definite portion of the Fund's capital never existed.* This brings us down to 1855, and since then no change has been made in our relations with Government: we have continued to receive 8 per cent. on our capital and subscriptions, and no person till now has ever doubted our right to it. Numerous instances to the contrary can be cited: one or two will be given. In 1863-64 the Secretary of State furnished Parliament with our accounts for 1857-58, showing that we got 8 per cent. on our ordinary capital; in 1871 the Financial Department made an examination of the Fund, the basis of which is that we shall receive 8 per cent. as long as the Fund lasts; in 1873 the Financial Department furnished us with calculations based on the same supposition, and on these calculations we have acted in paying our liabilities. There, then, can be no doubt that from the beginning we have received 8 per cent. interest on all our ordinary capital without let or hinderance, and with the full knowledge of the successive Governments.

77. In 1830 the members of the Service became uneasy at the financial position of the Fund: by degrees they arrived at the conclusion that it was insolvent. In 1837 a committee was appointed to report on the state of the Fund In November of the same year a revised set of rules was passed and directed to come into force on the 1st day of January 1838 if the Directors approved of them. The new rules limited the pensions granted to any one family to £600, cut away bonuses to children, and *thus reduced the expenditure;* on the other hand, they increased the amount of *interest* by the levy of contributions from absentees without furlough allowance, by enforcing a minimum subscripiton of Rs 25,000, and, if necessary, by extraordinary contributions declared and determined at the end of every three years. Several copies of the new rules were forwarded to the Directors, who took no exception to the members of the Service increasing the amount of the donation by increasing the amount of their subscriptions. Nor indeed could they object with any show of fairness. In 1828 they told the Service that "any deficiency must be "met either by a *reduction in the amount of the annuities or an increase in the rate of* "*contribution,*" and now the Service exercised its legitimate powers.

78. In 1849 the attention of the Service was called to the flourishing state of the Bombay Fund, and it was determined to remodel the Fund and establish it on a basis similar to that of the Bombay Fund after the introduction of Mr. Farish's rules At the half-yearly meeting on the 31st of January 1849 it was proposed and carried that a committee should be appointed to report on the propriety of extending the fund so as to grant benefits independently of

private income. The committee reported in favour of the proposal; they pointed out that the Fund was 12½ lakhs in debt, and advised that to meet this and the increased benefits an additional ½ per cent. should be levied on all the members of the Service, 2 per cent. from the married members of the Service, and children's subscriptions.

79. The Secretary, on the 9th of November, reported to Government the determination of the Service. He said:—

"I am directed by the Managers of the Bengal Civil Fund to submit, for "the information of the Honorable the Deputy Governor of Bengal, and "ultimately for that of the Honorable Court of Directors, the proceedings of "a special general meeting of subscribers to the Fund held on the 12th "ultimo, and the several papers connected therewith, having reference to the "adoption by the subscribers of a new set of rules for the Fund.

"These rules, it is proposed, should came into provisional operation on "the 1st of January 1850. In the meantime they are undergoing revision, "and when completed will be submitted for the approval of Honorable "the Court of Directors."

80. The rules were not completely revised till June 1850, and then were forwarded with the following letter, dated 4th June 1850:—

"1. In continuation of this office letter of the 9th of November last, "I am directed to submit, for the information of "Government and the Honorable the Court of "Directors, the papers as per margin, respecting "the revised rules of the Civil Fund, copy of "which, with report of the committee appointed to prepare them, was then "forwarded.

Proceedings of general meeting of the 31st January last (3 copies)
Third report of a committee appointed for revision of the rules (3 copies).

"2. As intimated in the 2nd paragraph of the above communication, it "was proposed to give effect to the new rules from the 1st January last, with "which view the votes of the subscribers were called for by the Managers, "and their report submitted to a meeting held on the 31st January, when it "was shown to have been determined by a majority of 297 to 42 that the "leading principles of the new rules should come provisionally into operation "from the date above mentioned, the committee, however, continuing their "labours to consider and report on certain further alterations and amendments "which had been suggested.

"3. Reference is now solicited to the resolutions of the meeting and the "report since received from the committee, from which it will be perceived "that it is intended that the new rules submitted to Government with the "letter of the 9th November last, with the further revisions, should be held "applicable in respect to the families of all subscribers coming on the Fund "after January last, and remain provisionally in force, subject to approval of "the Honorable Court and a report from a professional Actuary in London. "For the consideration of the amendments and alterations suggested in the "report which is enclosed, a meeting of the subscribers has been convened "for the 31st July next.

"4. The result of the meeting will be duly communicated for the infor- "mation of Government, and in the meantime I am directed to request that the "Honorable the President in Council may be solicited to recommend for the "approval of the Honorable Court the measures adopted by the subscribers, and "also that they be pleased to continue the same rate of interest on all the "subscriptions of the Fund under the new rules which they have allowed under "the former.

"5. In making this request the Managers think it desirable particularly "to refer to the circumstance of the present revisions having originated in the "insufficiency of the Fund, as formerly constituted, to meet its liabilities, "as explained in detail in the 26th and 27th paragraphs of the report of the "committee of 30th June 1849. The levy of increased contributions from all "members of the Service thus became inevitable, and in course of the discus- "sions which arose on the subject attention became directed to the great "advantages secured to the Bombay Fund by similar changes made in

"its constitution in 1830. Principles mainly corresponding with those "introduced into the Bombay Fund, approved by the Honorable Court, are "now proposed for this, which will at once restore its solvency and secure "like advantages, consisting chiefly of inducements to economy, more par- "ticularly on the part of the junior subscribers, and freedom from vexation and "harassing investigations, which the late rules frequently rendered necessary "in respect to property supposed claimable from estates of deceased subscribers "which might reduce the claim of their families on the Fund."

81. It is not known that any answer was received from Government regarding the request made in the 4th paragraph of this letter. On the 4th of July the Secretary again wrote:—

"With reference to the 4th paragraph of my letter of 4th June, and the "accompanying copy of the account of subscriptions to the Civil Fund under "new rules, I am directed by the Managers to request that Government will "be pleased to authorize credit of interest at 5 per cent. per annum on all "additional contributions, pending final orders of the Honorable Court of "Directors on the application for the full rate of 8 per cent. per annum."

Government complied so far with this request as to allow the Fund interest on the additional subscriptions calculated at the rate of the Government loan of the time being. On the 6th of August the Managers—

"*Resolved*—(Mr. Harvey dissenting) as a temporary measure, pending "decision of the Honorable Court on this office letter of the 4th June last, and "future consideration by the Managers as to the best mode of regulating the "credits and debits of the two distinct funds, that all subscriptions under "the old rules invested up to the present date remain in treasury notes, and "for the subscriptions accruing under operation of the new rules a separate "account be kept in form of a book debt, distinguishing, the *ordinary, on which* "*8 per cent. is allowed, from the extra subscriptions now levied, for which Government* "*have consented to allow interest only at the rate of the open loan, viz. 5 per cent.*"

82. The new scheme received considerable opposition from several members of the Service. The case of Mr. Bowring has already been referred to. In April 1850 Mr. St. George Tucker memorialised the Court of Directors to the same effect, and in September 1850 they forwarded his memorial to the Managers under cover of the following despatch:—

"1. With your letter dated 28th November 1849, No. 35, you forwarded "to us copy of the proceedings of a special general meeting of the subscribers "to the Bengal Civil Fund held on the 12th October preceding, together "with the several papers connected therewith, having reference to the adoption "by the subscribers of a new set of rules for the Fund, so as to place it on a "footing nearly similar to that of the Civil Fund at Bombay. In transmitting "those papers you observed that 'the proceedings thus far held are merely "'preliminary, and we shall report again to your Honorable Court as soon as "'we receive further intimation of the progress of this important project.'

"2. As we have not received any subsequent communication from you "upon the subject, we consider it proper, without further delay, to offer a few "remarks on the proceedings in question, with respect to the main object which "the subscribers to the Fund desire to effect, viz. the granting of pensions "without reference to the private property of the claimants. *We consider the* "*principle involved in the proposed change unobjectionable, but we can be no party to* "*promoting that object, unless previously assured by a competent authority that there* "*would be no risk of interference with existing engagements and obligations.*

"3. Before so important a change in the constitution of the Fund is there- "fore allowed, the scheme on which it is based should have the approval of "an experienced Actuary, who should be particularly instructed to see that "security is provided for the existing obligations of the Fund.

"4. As the new rules for carrying out the alterations in the Fund are "considered only as provisional, we deem it unnecessary to review them, our "present object being to *caution the Managers and Trustees against entering prema-* "*turely into engagements* which the Fund may not be able to maintain. We

"are accordingly of opinion that no pension should be granted under the new "rules until the soundness of the scheme has been verified by the report of an "Actuary.

"5. We forward in the packet copy of a memorial which we have "received from Mr. St. George Tucker, of the Bengal Civil Service, on the "subject of the proposed alterations in the Fund."

83. This was followed by another despatch, dated 29th of January 1851, which ran as follows:—

"1. In our despatch to your Government, dated 4th September 1850, "No. 34, we indicated our approval of the principle involved in the alterations "proposed in the constitution of the Bengal Civil Fund; but we at the same "time stated that we could be 'no party to promoting that object, unless "'previously assured by competent authority that there would be no risk of "'interference with existing engagements and obligations.' We also expressed "our 'opinion that no pension would be granted under the new rules until the "'soundness of the scheme had been verified by an Actuary.'

"2. You have now apprised us that by the 'votes' of a large majority of "the subscribers to the Fund it has been determined that the leading principles "of the new rules shall be brought provisionally into operation from the 1st "January 1850, subject to our approbation and the report of a professional "Actuary in London; also that the Managers of the Fund solicit the same "advantageous rate of interest on all the subscriptions under the new rules as "we have heretofore allowed on the subscriptions under the old rules.

"3. We consider that it was premature to bring the scheme into oper-"ation, and we must decline to be parties to it until we are in possession of the "Actuary's report.

"4. We regret that we cannot accede to the application for the grant "of 8 per cent. interest on all the subscriptions to the Fund. We were under "the necessity of refusing compliance with a similar application from the "*Trustees of the Bombay Civil Fund*, when that institution was reorganized for "effectuating the same objects as the Bengal Civil Fund. We can only allow "4 per cent. interest on the additional subscriptions required for the new objects "of the Fund, if such objects should be carried into execution with our "sanction."

84. The reasons which induced the Directors to refuse 5 per cent., the current rate of the time being on Government loans, have been already adverted to in paragraph 19 of the note on the Bombay Fund. The Directors—shrewd business men—were aware that the rate of interest would probably fall below 5 per cent., and hence they refused to hold the Fund's additional subscriptions for "*indefinite periods*" at a higher rate than 4 per cent. The members did not accept the proposal, clogged as it was with a *new reservation* to which the 8 per cent. was not subject, viz. that the objects should be carried out with the sanction of the Directors, and the following resolution was passed at the half-yearly meeting of July 1851:—

"Orders of the Honorable Court of Directors, dated 29th January, have "been received, declining to allow 5 per cent. interest on the additional sub-"scriptions under the new rules, and sanctioning interest only at the rate of "4 per cent. per annum. Under these circumstances the Managers have "directed the investment in Government 5 per cent. securities of Rs. 1,67,333, "available as the (partly estimated) balance of 'additional subscription' to the "30th April last, and under an arrangement with Government for the future "they will be able similarly to invest the sum of Rs. 10,000 a month, the "calculated amount of such subscriptions."

85. As mentioned above, the Managers in 1850 selected an Actuary, Mr. Davies, to report on the proposed change in the constitution of the Fund. His report was based on the assumption that the Directors would grant—

(1) Five per cent. on the additional subscriptions required to secure pensions to the widows and daughters, irrespective of private property, till the Fund should be extinguished by the death of the last widow and orphan;

(2) Eight per cent. on the rest, and that *all our remittances* would be made during the same period;

(3) At 1*s.* 11*d.* per rupee.

86. He was of opinion that on this supposition the single members should be charged 3 per cent. on their salaries and married members 6 per cent.; but subsequently, understanding that the Directors had refused to allow more than 4 per cent. on the additional subscriptions, he increased his percentages to 3½ and 6⅔ respectively. This report gave rise to a long discussion, which ultimately ended in the retention of the previous rates of subscription, pending a reference to another Actuary, Mr. Neison. In the meantime the Managers, on the 11th of May 1852, drew up the following directions for keeping their accounts:—

"1. With reference to the 6th resolution of 24th February last, Mr. Grey "having stated his views regarding the accounts, the following arrangements "were agreed to:—

"Fifteen lakhs of the balance of the unappropriated fund to be transferred "from the 8 per cent. head of account to the appropriated fund on account "of the values of pensions granted under the old rules and still pending.

"In future, on the accounts of each year being closed, the unappropriated "balance in excess of five and a half lakhs (the estimated value of two years' "current appropriations) to be in like manner transferred to the appropriated "fund from the same head of account, until the full value of the pensions "granted under the old rules, and then still pending, is made good.

"The sums transferred as above to be credited in a separate (third) column "of the appropriated fund, and all payments on account of pensions granted "under old rules to be debited under a corresponding column.

"*Expenditure.*—All appropriations of values of pensions granted under "the new rules to be made in the proportion of the *value* of one-third from the "4 per cent. and the value of two-thirds from the 8 per cent. head of account.

"*Note.*—Thus of a pension of £300 a year the value of £200 at 8 per cent. will be "transferred from one head of account, and the value of £100 at 4 per cent from the other "head of account.

"All payments on account of such pensions to be made from the appro- "priated fund in the proportion of one-third from the 4 per cent. and two-thirds "from the 8 per cent. head of account.

"All establishment and miscellaneous charges to be debited in the unap- "propriated fund under the 4 per cent. head of account.

"This is to compensate for a trifling disadvantage to the Fund by appropriating "pensions in the exact proportion of two-thirds and one-third.

"*Income.*—All fines, commutation payments, and subscriptions on annuities "to be credited under the 4 per cent. head.

"Payments to make up Rs. 25,000 or Rs. 12,500, or Rs. 6,250, on retire- "ment, to be credited under the 8 per cent. head.

"Deductions under article 7 to be made from the appropriated fund in "the proportion of one-third and two-thirds, and credited to the unappro- "priated fund in the same proportions.

"The accounts of 1850-51 to be readjusted on the above principles, so far "as may be found practicable, upon communication with the accountant to "Government."

87. In the beginning of 1853 Mr. Neison's report was received. Like that of his predecessor, it was based on the assumption that so long as the fund existed the assets would be invested at 8 per cent. and 5 per cent. interest, and the exchange remain at 1*s.* 11*d.* per rupee for both original and additional subscriptions. He calculated that 3 per cent. on unmarried men and 5 per cent. on married would be sufficient.

88. In April 1853 the first quinquennial examination of the fund took place, and the Managers, satisfied from it that an increased subscription was unnecessary, continued the previous rates. This decision was challenged by some of the members, and in May 1854 Mr. Tucker addressed the Directors on

the subject. He pointed out that the Managers had rejected the reports of the two Actuaries, and prayed that the Directors would prohibit the granting of pensions under the new rules until the subscriptions should have been regulated in accordance with the recommendations of the Actuaries. But the Directors were too wise to do anything of the kind; they were content with sending the memorial to the Government "to call for a report on the subject, and also for "any observations which the Managers might wish to make." The Managers' answer is dated the 7th of December 1854, and is as follows:—

"I am directed by the Managers of the Civil Fund to acknowledge the "receipt of your letter of the 13th ultimo, forwarding copy of a despatch from "the Honorable Court of Directors, No. 39, dated the 20th September last.

"With reference to the 2nd paragraph of the despatch, I am desired to "forward, for transmission to the Honorable Court, printed copies of the papers "noted below.* It will be perceived that a proposal on the part of the "Managers was put forward on the advice of Mr. Davies, the Actuary, at the "meeting held on the 30th March 1852, to the effect that an additional cess of "½ per cent. on the salaries of the whole Service should be levied. This "motion was defeated by an amendment, but the amendment itself was subse-"quently disapproved by the Service. Similarly, at the same meeting, it was "proposed that fines should be levied on unequal marriages, but this motion "was also defeated.†

"The Managers thereupon determined to wait the result of the reference "which had been made to Mr. Neison. Mr. Neison's report took, on the "whole, a more favourable view of the state and prospects of the Fund, and on "a review of the accounts at the first quinquennial adjustment under rules 43 "and 44, the Managers came to the conclusion that no increase of contribution "was at present necessary. On the motion of a subscriber, however, the "suggestions of the Actuaries were again pressed upon the consideration of the "Managers, and the opinion formed by them on such reconsideration will be "found in their report laid before the general meeting of the 31st July last."

89. Further than this they declined to go, and, forwarding the papers mentioned in their letter, they left the Directors to form their own opinion from them. The answer came in June 1856:—

"1. When it was first intimated to us that the members of the Bengal "Civil Fund were about to modify the constitution of the fund so as to admit "of the pensions being granted without reference to the private property of "the individuals, we offered no objection to the measure, but we observed that "before so important a change in the constitution of the fund was allowed, "the scheme on which it was based should have the approval of an experienced "Actuary, who should be particularly instructed to see that security is "provided for the existing obligations of the fund.

"2. We also expressed our opinion that no pension should be granted "under the new rules until the soundness of the scheme has been verified by "the report of an Actuary.

"3. These precautions were, however, disregarded, and the new rules "were brought into operation from 1st January 1850, which we considered "premature, and in our despatch dated 29th January 1851, No. 6, we stated "that we must decline to be parties to the new scheme until we are in posses-"sion of the Actuary's report.

"4. The Managers of the fund having referred the scheme, with the "new rules, for the consideration of an Actuary, the late Mr. Griffith Davies, "we find that he reported thereon in June 1851, and that he recommended an "increase in the rates of subscription, and the imposition of fines in cases of "disparity of ages on marriage of more than five years.

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* 1. Report by Mr. Griffith Davies, June 1851.
2. Managers' proposals thereon, November 1851.
3. Report by Mr. Neison, December 1852.
4 Proceedings of general meetings of subscribers held on 31st January 1852, 30th March 1852, 31st July 1852, 31st January 1853, 31st January 1854, and 31st July 1854.

† Namely, "that for the fifth and sixth lines of the proposed article 4 the following be substituted,—The contributions for married subscribers shall be 5 per cent. and from unmarried 2½ per cent."

"5. Mr. Davies's report was referred to a committee of three members of "the Fund (Messrs. E. Currie, J. P. Grant, and Cecil Beadon) for examination, "and they suggested that it would 'be proper to adopt immediately that part "'of Mr. Davies's recommendation which would raise the contribution of the "'whole service from 2½ to 3 per cent., by which means unquestionably the "'deficit in the capital will be made up, and the objects of the old Fund "'permanently provided for.'

"6. A proposition to this effect was accordingly submitted to a special "general meeting of subscribers held on 30th March 1852, but it was defeated "by the adoption of an amendment, which had for its object the levying of "a still larger contribution on the married, and of a smaller one on the "unmarried members of the Fund than the original proposition contem-"plated.

"7. The proposition that fines should be levied on unequal marriages was "also negatived, and as the proposition for altering the rates of subscription "embodied in the amendment was required by the rules of the Fund to be "circulated for the votes of the Service at large, the final result was a disap-"proval of the amendment also; the rates of subscription established in 1850, "which the Actuary deemed insufficient, therefore remained unaltered.

"8. The Service, however, adopted articles 5 and 8 of the rules as "revised, the former levying a small contribution on married and widower "subscribers for securing the benefits of the Fund to their children, and the "latter for obtaining a minimum payment, including interest of Rs. 25,000 to "the Fund, from subscribers on their retirement on annuities from the Civil "Service Annuity Fund.

"9. The above proceedings were reported to the subscribers at the half-"yearly general meeting held on 31st July 1852, whereupon the Managers "determined to await the result of a reference which had been made to another "Actuary (Mr. Neison) on the affairs of the Fund. His report, which is dated "14th December 1852, the Managers considered, 'took on the whole a more "'favourable view of the state and prospects of the Fund,' and on a review of "the accounts of the first quinquennial adjustment, under Rules XLIII and "XLIV, the Managers came to the conclusion that no increase of contribution "was at present necessary.

"10. It is important here to notice that Mr. Neison's calculations are "based on the assumption that the rates of subscription suggested by "Mr. Davies would be adopted, which hitherto has not been the case. Allowing "for this and other circumstances adverted to in Mr. Neison's reports, we are "not prepared to admit that his view of the state and prospects of the Fund "is more favourable than that of Mr. Davies.

"11. Nor should it be overlooked in the consideration of that important "question that the late Mr. Davies, in *addenda* to his report, on finding that "the rate of interest which he had assumed on the additional subscriptions "would not be allowed, recommended, 'in order to place the Fund on a solid "'foundation,' that the subscriptions should be increased to 3¼ per cent. on the "salaries of the whole service, with 3¼ per cent. additional on the salaries of "married members; and yet the low rates of 2½ and 4½ per cent. respectively "are permitted to continue without any appeal from the Managers to the "subscribers of the Fund to increase them.

"12. It is true that at the first quinquennial adjustment of the Fund in "April 1853 the balance proved larger than had been estimated, and that it "has subsequently increased; but we cannot regard this improvement in the "cash balance, which the occurrences of any subsequent year or years and "the additional demands under the new rules may alter, as affording a suffi-"cient justification on the part of the Managers for the neglect of what we "consider an imperative duty to call on the members of the Fund to increase "the rates of subscription to the extent at least of ½ per cent., which both "Actuaries considered necessary.

"13. This measure has, moreover, been strongly recommended by the "committee appointed to examine the late Mr. Davies's report. We therefore

"can have no reliance that the objects of the Fund will be permanently "provided for unless it be adopted. You will accordingly intimate to the "Managers our desire that the proposition of the committee for increasing "the rate of subscription ½ per cent. on the salaries of the whole of the "Service be again submitted for the votes of the members of the Fund with "the committee's recommendation in favour of its adoption.

"14. You will also request the Managers to take an early opportunity to "set apart from the cash balance, 'as appropriated funds,' the value of the "whole of the existing annuities and other incumbent liabilities of the Fund, "and to credit to this head the value of every subsequent annuity as soon as "it is granted.

"15. We likewise consider it necessary, as a safeguard against possible "reverses, that the annual income of the Fund should be considerably in "excess of its annual expenditure; and although we do not concur in the views "expressed in Mr. Beadon's memorandum of 31st January 1854, as to the "extent to which he considers it desirable to raise the unappropriated capital of "the Fund, we are of opinion that it ought to equal a moiety of its contingent "liabilities, and that the surplus annual income should be such as would "produce this amount within a reasonable period."

90. This letter will show how thoroughly the Directors understood the different controversies, how perfectly they were at home in the details of Messrs. Neison and Davies's reports, and how, as regards a knowledge of actuarial business, they contrast not unfavourably with others. It is true they were not so successful as a later Government in performing the extraordinary task of calculating the position of our Fund "upon the assumption that Government "has undertaken *during pleasure to subsidise certain definite assets*," but this, as the despatch tells us, was probably due to the circumstance that "the way "to make a complete valuation of the assets and liabilities of the Fund had not "at that time been discovered." There can be no doubt but that the Directors' conclusions as regards an increased subscription were correct, and should have been followed. The Managers came to a contrary opinion, and in an elaborate answer contested in detail the views of both the Actuaries and the Directors. The following extracts are sufficient for the present:—

"I have the honor, by direction of the Managers of the Civil Fund, to "acknowledge receipt of Mr. Secretary Lushington's letter No 2756, dated "10th June last, forwarding, for the information of the Managers, copy of a "despatch from the Honorable Court of Directors, No. 34 of 1856, dated the "25th April.

"2. In reply, I am directed by the Managers to state that the subject of "the Honorable Court's despatch, namely the sufficiency of the income of the "Civil Fund to provide for all the objects contemplated by the new rules, "has so constantly been the subject of careful inquiry and discussion with "them, and the progressive results of the Fund's operations have been so "closely watched, that they trust the representations they are now about to "make of the Fund's operations, condition, and prospects, will meet with "consideration; and that the Honorable Court will see fit, under the present "altered position of the Fund, to accord their sanction to the scheme, with-"out requiring as a condition any increase (for the present at least) to the "existing rates of subscription.

"3. I am directed, in continuation of the printed papers forwarded for "transmission to the Honorable Court with Mr. W. Gordon Young's letter, "dated 7th December 1854, to submit the following, viz. Report of Proceed-"ings of Half-yearly General Meeting held on 31st January 1855, ditto on "31st July 1855, ditto on 30th January 1856, and a printed paper containing "a resolution of the Managers of the 22nd August 1856, with memoranda "by Messrs. Beadon and Allen. All the above papers will show that the "question of the sufficiency of the Fund's income has been from time to time "brought prominently before subscribers at the general meetings of members "of the Fund."

91. Then they went on to show that Mr. Neison's calculations were erroneous, and added a calculation of their own on the principles of Messrs. Davies and Neison, on the assumption that *all* the assets should bear interest at 8 per cent., and added—

"As, however, this calculation supposes all the items to bear 8 per cent. "interest, a correction is necessary with regard to the amount that is actually "invested at 4 or 5 per cent. The items affected are as follows:—

	Rs.
Portion of capital	12,08,639
Composition of annuitants	2,85,147
Subscriptions at 2 per cent.	9,46,647
Ditto on annuity	38,178
Ditto for children	4,11,474
Total ...	28,90,085

"This amount of capital at 5 per cent. is found (by multiplying by ·723— "*see* Mr. Davies's report, paragraph 44) to be equal to Rs. 21,06,872 at 8 per "cent., the difference being Rs. 7,83,213. A similar correction is necessary for "a portion of the liabilities calculated at 4 per cent., viz. Rs. 4,17,825, which "multiplied by ·644876 (*see addenda* to Mr. Davies's report), gives Rs. 2,69,445, "the difference being Rs. 1,48,380. After these corrections the total assets "and liabilities will stand as follows:—

	Rs.	Rs.
Assets	77,29,146	
Less „	7,83,213	
		69,45,933
Liabilities	65,84,679	
Less „	1,48,380	
		64,36,299
Difference ...		5,09,634

"or an excess of assets over liabilities of five lakhs.

"There is, however, another consideration which has not yet been taken "into account, owing to a desire to present the estimates, as nearly as practi- "cable, in the form in which they were made by the Actuaries, but which it is "necessary to allow for in forming a correct estimate of the contingent liabi- "lities of the Fund. *The consideration alluded to is that of the rate of exchange.* "*In the reports of the Actuaries, and at paragraph 9 of this letter, the conversion of* "*sterling money into Company's rupees has been made at the exchange of* 1*s.* 11*d. per* "*Company's rupee. The correct rate at which the payments of the Fund are made is* "2*s.* 1*d. the sicca rupee, which is nearly equivalent to* 1*s.* 11½*d. per Company's rupee.*

"With reference to the 14th paragraph of the Honorable Court's despatch, "it will be seen from statement B that the value of all existing pensions "granted under new rules is fully provided for by appropriations of capital, "while the unappropriated capital, bearing interest at 8 per cent., is sufficiently "large to justify the appropriation during the current year of at least ten lakhs "towards the deficiency in the capital appropriated to meet the liabilities of "the Fund under the old rules. This operation, if the excess of appropriations "under the new rules be taken into account, will leave comparatively small "deficiency, and one which the Managers think they are fully justified in "believing will be altogether removed before the next quinquennial adjustment "in 1858 without trenching on the capital of the Fund at 4 per cent., the "surplus of which is already equivalent to four years' appropriations at the "average of the last six years, an amount of reserve capital which the Managers "trust will be considered to meet the wishes of the Honorable Court, that the "income of the Fund should be so regulated as to raise its unappropriated "capital within a reasonable period to a moiety of its contingent liabilities.

"In conclusion, I am desired to remark that the valuation of contingent "liabilities has been made, as will not fail to be observed, from proportions

"taken to the different descriptions of liability in 1850. This, though perhaps "showing a total amount less than would have resulted from a detailed calcu- "lation, has been done not only to avoid the difficulty which would necessarily "be found in collecting the materials for calculation in detail, and the "laborious nature of that calculation if made in detail, first according to "Mr. Davies's process and tables, and again according to those of Mr. Neison, "but also from the consideration that the course adopted leaves no ground for "the supposition that there has been any deviation from the system adopted "by the Actuaries; while there appears no *primâ facie* reason why it should "present an under-valuation of the liabilities of the Fund. In 1858 it will "be the duty of the Managers to frame a careful estimate of the Fund's "liabilities for the purpose of regulating the rate of subscription, and in the "meantime they submit the present report in the confident hope that the "Honorable Court will be of opinion that the existing subscription rates may be "continued without any fear of the interests of future subscribers being in any "any way endangered, while any increase that might now be made, if proved "in 1858 to be unnecessary, would, it is respectfully submitted, not only be "unfair to the present members, who, by the high rates they have been paying "since 1850, have so largely raised the capital of the Fund, but it would have "the undesirable effect of unnecessarily throwing open to readjustment the "amount paid under article 8 of the rules by every annuitant retired since "1850 who compounded for future subscriptions at the time of his retirement."

92. This remonstrance had the desired effect on the Directors. They assented to the Managers' proposition, and said—

"We learn from the report of the Managers of the Civil Fund, dated the "25th of September 1856, that the capital of the Fund on the 30th April 1856 "amounted to Rs. 35,91,148, and the value of the pensions to Rs. 30,48,728, "the difference exhibiting a surplus of Rs. 5,42,420. These results are partly "estimated.

"2. The Managers remark that the unappropriated capital bearing "interest at 8 per cent. is sufficiently large to justify the appropriation during "the current year of at least ten lakhs towards the deficiency in the capital "appropriated to meet the liabilities of the Fund under the old rules. This "operation, if the excess of appropriations under the new rules be taken into "account, will leave comparatively a small deficiency, and one which the "Managers think they are fully justified in believing will be altogether removed "before the next quinquennial adjustment in 1858 without trenching on the "capital of the fund at 4 per cent., the surplus of which is already equivalent "to four years' appropriations at the average of the last six years.

"The report is altogether very hopeful, and tends to show that existing "rates of subscription (2½ per cent. for the unmarried class and 4½ per cent. "for the married) may perhaps be sufficient to secure the Fund, and to realize "the result pointed out in the closing paragraph of our letter of the 25th of "April last, an object which must not be lost sight of. We therefore shall not "object to the course suggested by the Managers being pursued, namely to "postpone any further increase of subscription until the result of the quinquen- "nial adjustment in 1858 shall have been ascertained."

93. This closed the correspondence, and now let us see what it amounted to. In 1850 the Managers changed the nature of the Fund and referred the matter for report to two Actuaries, *who openly framed their report on the assumption that the Directors would grant* 8 *per cent. compound interest on the original and* 5 *or* 4 *per cent. on the additional subscriptions, with exchange at* 1*s.* 11*d. per rupee as long as the Fund lasted;* that these calculations were acquiesced in by the Court of Directors, who desired that the Actuaries, suggestions should be carried out; that subsequently the Managers pointed out to the Directors that the *exchange on all our payments was* 2*s.* 1*d.* the sicca rupee (1*s.* 11½*d.* the Company's rupee) *and not* 1*s.* 11*d.*, and that for this and other reasons the Fund was solvent, and asked the sanction of the Directors to the existing arrangement until, as they said, the result of the adjustment in 1858 would be known; that the Directors agreed without any reservation, and never denied that the interest was 8 per cent.

and exchange 2*s*. 1*d*. the sicca rupee *on all our charges*; and hence it results, from the principle enunciated in Robertson's case, that Government is now estopped from asserting that we have no right to interest at 8 per cent. on our capital or exchange at 2*s*. 1*d*. the sicca rupee so long as the Fund will exist. Let us now turn to the description given by the Government of India of the change which took place in 1850 and the subsequent discussion between the Managers and the Court of Directors. In paragraph 8 of the despatch it is said—

"The Court of Directors considered the principle of this change unobjec-
" tionable, but in accordance with the policy which they had consistently
" adopted in dealing with the other two Funds, declined to be a party to the
" reorganization until they were assured by competent authority that there
" would be no risk of interference with existing engagements and obligations.
" For some years the Court retained the opinion that the measures taken by the
" Bengal Service, severe as they were, were insufficient to secure solvency, and
" pressed for additional subscriptions. It was not till 1858 that, still not
" without reserve, they suspended this demand."

94. The members of the Service can now judge whether this paragraph is a fair representation of the discussion, so far as it touches on the matters referred to in the despatch. All reference to the Actuaries' reports; the assumptions on which the calculations were made; the fact that the reports were brought to the notice of the Directors; that they understood them, and that they never thought of questioning our right to 8 per cent. interest and exchange at 2*s*. 1*d*. the sicca rupee on all our home expenses—all these are omitted. No person reading it would ever conceive that the Directors knew that we assumed the Directors would give us 8 per cent. interest and 2*s*. 1*d*. the sicca rupee exchange till the decease of the last member and pensioner of the Fund, and that this was brought to the notice of the Directors, and not denied. Then the Directors did not acquiesce in 1858, but in 1856, and they never made any "demand;" they never went further than to give their "opinion," express their "wish," or their "desire," in connection with the subscriptions.

95. Side by side with the above correspondence another ensued which proves, if possible, more clearly our claim to 8 per cent. interest on all our original capital and subscriptions. When the new system of accounting with Government was entered into in 1850, the right of the Fund to interest with half-yearly rests was soon denied, and in May 1851 the Accountant-General addressed Government on the subject as follows—

"2. The Honorable Court of Directors, in a despatch dated 4th July 1832,
" having noticed the high rates of exchange and interest (8 per cent.) granted
" to the several Compassionate Funds, directed (paragraph 5) that the rate of
" interest upon the balances be reduced to 5 per cent. per annum from May
" 1833; but the Honorable Court, not wishing that the Compassionate Funds
" should be placed in a worse position than before, further directed that on the
" 30th April in each following year the several Funds be granted, as a donation
" from the Company, a sum equivalent to the difference between the amount
" which the grant of such interest (5 per cent.) and of interest at the rate now
" allowed (8 per cent.) would produce.

"3. The whole of the 8 per cent. treasury notes held by the several Funds
" were, under those instructions, withdrawn and the amount re-invested in 5 per
" cent. notes, and an additional interest of 3 per cent. has been annually granted
" on this description of investment as a donation from the Honorable Court."

"7. The balances of the other Compassionate Funds referred to by the
" Honorable Court are invested entirely in treasury notes bearing interest at
" 5 per cent., while the balance of the Military Orphan Fund is held principally
" in those notes, but also partially in loan paper bearing interest at 4 and 5 per
" cent., the additional interest being in every instance granted up to 8 per cent.
" as a donation.

"8. A reference was made on the subject by my predecessor, Mr. Morley,
" in 1833 (copy annexed for ready reference of letter of 30th April 1833—

" reply 711 of 6th idem); but the orders of Government on that occasion appear " to have referred exclusively to the dates of payment of the additional interest " or donation (and not to the rate to be allowed), the Honorable Court having " directed the payment to be made on the 30th April in every year. The orders " of Government are accordingly solicited on the following points to remove " the doubts at present existing :—

" 1*st.*—Whether the donation in the shape of additional interest on the " balance of the Service Funds is payable under the Honorable Court's instruc- " tions on any other description of interest than treasury notes at 5 per cent., and

" 2*nd.*—Whether under these instructions the Sub-Treasurer is authorized " to disburse any higher rate of additional interest than 3 per cent. as the " donation of the Honorable Company "

96. The answer was received in August, and, except so far as regards the matter of yearly or half-yearly payments, it contains an accurate description of our Fund and its relation towards Government. Our Fund was " formed from contributions of the subscribers and of Government, with interest thereon," and was invested in 5 per cent. treasury notes, and was " *entitled to a* contribution of additional interest of 3 per cent." Nor did the Government therein fall into the error of supposing the change in our relations began in 1829, or that it was with the evident intention of marking the gratuitous and voluntary character of any concessions.

" I am directed to acknowledge the receipt of your letter No. 35, dated 6th " May last, on the subject of payment of interest to the Military Orphan " Society, and soliciting the orders of Government on the following points:—

" (1) Whether the donation in the shape of additional interest on the " balance of the Service Funds is payable under the Honorable Court's instruc- " tions as on any other description of interest than treasury notes at 5 per cent., " and (2) whether under these instructions the Sub-Treasurer is authorized to " disburse any higher rate of additional interest than 3 per cent. as the donation " of the Honorable Company.

" 2. In reply I am desired to inform you that, in the opinion of the " President in Council, the Service Funds *are entitled to no higher additional interest* " than 3 per cent., whatever may be the description of Government security in " which their assets are invested, so that the charge to the State shall not under " any circumstances exceed the limit of 8 per cent. on the capital of each Fund.

" 3. There are two other points in connection with the Military Orphan " Society in respect to which the Sub-Treasurer has addressed the Government, " viz. whether 8 per cent. interest should be paid on *deposits made with the* " *Society, but not forming part of its funds*—such, for instance, as the patrimony " of wards; and whether the payment of interest should be issued but once in " the year, or more frequently.

" 4. On the first point the President in Council does not find that the " *patrimony of orphans forms any portion of the* bonâ fide *capital of the Society, seeing* " *that it is not at the disposal of the Society, but remains the property of the orphan;* " and it is at least doubtful whether the orders of the Honorable the Court of " Directors in favour of the Society was meant to extend to this description of " assets. This point, however, is open to a reference to the Honorable Court.

" 5. It appears to his Honor in Council that *the capital of the* Military " Orphan Society, and indeed of *all the Service Funds similarly situated, can be held* " *to be formed solely from contributions of the subscribers and of Government, with the* " *interest arising thereon; and that this capital may be invested in 5 per cent. treasury* " *notes at the option* of the Fund concerned where such privilege has been " accorded, and *is entitled to a contribution of additional interest at 3 per cent.* once " in each year. *No additional or special interest, however, can be allowed* on moneys " or balances that cannot be shown to be the *bonâ fide* property of the Military " Orphan Society, and property claiming to be *bonâ fide* the property of the " Society and at its absolute disposal must be so certified under the signature of " the Deputy-Governor and three or more Managers of the Society, for the " guidance of the officers of the Government in the calculation and payment of " additional interest thereon."

97. There was still one point undecided—whether the payments to our Fund should be yearly or half-yearly. The Accountant-General again addressed Government on this subject in November 1851.

In answer he was told, on the 16th of January 1852:—

"I am directed by the President in Council to acknowledge the receipt of "your *letter, No.* 846, *of the 26th November* last, inquiring, with reference to "the orders passed in this department on the *15th August* preceding, and which "prescribe an *annual* adjustment of *additional* interest with the Service Funds "in general, whether those instructions were intended to apply to the Civil as "well as the other Service Funds, as the interest, both ordinary and extraordi-"nary, on the assets of the Civil Fund, have hitherto been always paid half-"yearly.

"2. In reply, I am desired to state that the orders of the Honorable Court of "4th July 1832 most clearly authorize only an *annual* adjustment of interest with "all the Service Funds; but as payments have long been made to the Civil Fund "half-yearly, the President in Council is unwilling to disturb a *system "that has prevailed for many years, even though it appears to have been erroneous, "or to adopt another which will place the Fund in a worse position than before;* and "he is accordingly pleased to authorize the continuance of the practice "of paying the interest on the assets of this Fund half-yearly until the "receipt of any orders to the contrary from the Honorable the Court of "Directors."

98. Subsequently the right of the Managers of the Military Orphan Society to invest the patrimony of their wards like the capital of that Society and other points were referred for the decision of the Directors.

The answer came in June 1852, approving of the Governor-General's decision. It was as follows:—

"1. In communicating our decision upon the subject of this correspond-"ence, we must direct your attention to the instructions contained in our "circular despatch, in the Public Department, *dated the 4th July* 1832, for "reducing the rate of interest from 8 to 5 per cent. per annum on the balance "of the Service Funds therein mentioned.

"2. The object of those instructions was to assimilate the rate of interest "on the capital of those funds to that borne by the public debt, and to grant "the difference between 5 and 8 per cent. as a direct boon to the funds. We "neither intended to diminish nor increase the advantages conceded by Govern-"ment to the funds, but to adjust in the public accounts the sum properly "chargeable for interest, and the remainder as a contingent charge in aid of "the institutions patronized by Government.

"3. The common rate of interest on Government securities may now be "considered 4 per cent., but as the 4 per cent. loan is at present at discount, it "follows that if the Society's funds were to be invested in that loan, and "Government allowed 4 per cent. in addition to the interest as a contingent "charge, a greater advantage would accrue to the Society at the expense of "Government than we intended or can permit.

"4. It may be inconvenient to open book debt accounts for the reception "of the funds of the Service institutions. We therefore consider that the best "way of accomplishing the object of our original instructions is to issue "non-transferable treasury notes bearing a fixed rate of 4 per cent. *interest per "annum for the capital of the orphan and other institutions to which Govern-"ment are pledged to grant an equivalent to 8 per cent.*, to pay the interest "annually on the notes, as well as the annual contingent charge of 4 per cent., "and to show those charges separately in the public accounts.

"5. As the patrimony of the wards of the Orphan Society forms no part "of the capital of that institution, we cannot allow more than the common "rate of interest thereon.

"6. We conclude that any sums admitted by the Orphan Society to have "been overdrawn have been duly adjusted."

99. The substance of the despatch is, as I have stated in paragraph 76, that the Directors considered themselves, as they really were, pledged to grant 8 per cent. on the capital of the Fund; that they never intended by the despatch of 1832 to throw any cloud on the title of the Fund to such interest; and, as if to give point to this statement, they refused 8 per cent interest on the patrimony of the wards of the Orphan Society, *because it formed no part of the capital of that institution.*

100. On the 3rd of January 1853 the Sub-Treasurer forwarded a copy of this despatch, and in order to carry it out requested the sanction of the Managers to cancel their 5 per cent. notes and re-invest the same in 4 per cent. non-transferable notes, paying interest *annually*. The Managers addressed Government on the subject in a letter dated the 7th of March. They said—

"I am directed by the Manager to submit, for the consideration and "orders of the Government, the accompanying copy of a letter from the Sub-"Treasurer, dated the 3rd January last. In advertence to the despatch of the "Honorable Court of Directors, No. 54, dated 3rd November 1852, the "Sub-Treasurer proposes to cancel the treasury notes, embodying the main "portion of the capital of the Fund, and which by their tenor yield, as in "the case of the public debt, interest half-yearly to the institution, and to "re-invest the funds in treasury notes bearing interest payable annually.

"As this would have the effect of considerably diminishing the advantage "the Fund has long received by way of interest on its assets, and the Honor-"able Court have expressly stated their intention not to diminish the "advantages conceded by Government to the Funds, the Managers earnestly "hope that the Government will issue such instructions on the subject as may "secure the same or equivalent advantages to this Fund to those allowed it "under the orders issued on the 16th January 1829, and reiterated on the "16th January of last year in the following words:—'As payments have long "'been made to the Civil Fund half-yearly, the President in Council is unwilling "'to disturb a system that has prevailed for many years, or to adopt another "'which will place the Fund in a worse position than before; and he is accord-"'ingly pleased to authorize the continuance of the practice of paying the "'interest on the assets of this Fund half-yearly, until the receipt of any "'orders to the contrary from the Honorable Court.'

"The object of the Court, as stated in the 2nd paragraph of the despatch "and the adjustment proposed, may be readily effected without prejudice to "the Fund."

101. It would appear that this and other matters were referred to the Directors, who answered on the 30th of May as follows:—

"The points which you have referred for our specific instructions are—

"(1) Whether interest on the capital of the Bengal Civil Fund invested "in non-transferable treasury notes and the donation allowed for the difference "between the interest borne by those notes *and the fixed rate of* 8 *per cent.* "should not be paid to the Fund half-yearly, as in the case of the public debt;

"(2) For a re-consideration of the request of the Managers of the Military "Orphan Society for an allowance of 8 per cent. interest on the patrimonial "property held in deposit on account of the wards of the institution;

"(3) Whether, in order to prevent a recurrence of the advantage taken by "the Managers of the Orphan Society in disposing of the 5 per cent. notes for "the purpose of investing the proceeds in 4 per cent. paper at a large "discount, and thus obtaining more than the limited rate of 8 per cent. "interest, the Society's capital should not be invested in a book debt of "Government.

"2. On the first point, it would appear from your communication to have "been the practice hitherto to pay interest and donation on the capital of the "Bengal Civil Fund half-yearly, and that to substitute annual payments would "inflict a permanent loss to the Fund of above Rs. 3,000 per annum. Under "this representation, and in accordance with the principle which we have

"already recognized, that in assimilating the rate of interest on the capital of the "Service funds to the rate borne by the public debt, *we neither intended to "diminish nor increase the advantages conceded by Government to the funds*, "we accede to the request of the Managers of the Bengal Civil Fund that "interest and donation on the capital of the Fund be continued to be paid "half-yearly.

"3. With respect to the second point, we are certainly surprised to find "it stated in the letter from the Secretary to the Orphan Society, dated 9th "February 1853, No. 414, that the Society was enjoying from its foundation "the same rate of interest, viz. 8 per cent., on all its property, whether its own "*bonâ fide* capital or the patrimonial monies of wards; for this question was "reported in your Military letter, dated 28th May 1840, No. 59, paragraphs 55 "and 56, to have been decided in the negative, which decision had our "approval in paragraph 18 of our reply, dated 21st April 1841, No. 35. "We must accordingly adhere to the following communication made to "you in your financial despatch, dated 30th November 1852, No. 54, "paragraph 5.

"As the patrimonial of the wards of the Orphan Society forms no part of "the capital of that institution, we cannot allow more than the common rate "of interest, &c.

"For the above reason we wish you to reconsider the subject in all its "bearings, and then to report to us fully your opinion upon it."

102. And this subject was finally disposed of by the following resolution, dated 19th August 1854:—

"Read a despatch from the Honorable the Court of Directors, No. 19 of "1854, dated the 30th May, replying to the letter from this department, No. 45, "dated the 29th July 1853, in respect to the best mode of allowing interest "and donation to the *Bengal Civil Fund* and to the Military Orphan Society.

"On the first point, it would appear from your communication to have "been the practice hitherto to pay interest and donation on the capital of the "Bengal Civil Fund half-yearly, and that to substitute 'annual payments "'would inflict a pecuniary loss to the Fund of above Rs. 3,000 per annum.' "Under this representation, and in accordance with the principle which we "have already recognized, that in assimilating the rate of interest on the "capital of the service funds to the rate borne by the public debt 'we neither "'intended to diminish nor increase the advantages conceded by Government "'to the funds,' we accede to the request of the Managers of the Bengal Civil "Fund that interest and donation on the capital of the Fund be continued to "be paid half-yearly.

"The Honorable Court in this paragraph having acceded to the request of "the Managers of the Bengal Civil Fund, that interest and donation on the "capital of the Fund *shall be continued to be paid to it half-yearly*—

"Ordered that a copy thereof be forwarded to the Managers of the Bengal "Civil Fund for their information and guidance, with advertence to the papers "referred to; and further, that a copy of the same paragraph be transmitted "respectively to the Officiating Accountant to the Government of Bengal and "the Sub-Treasurer."

103. There can now be no doubt that the Directors considered the Fund entitled to 8 per cent. on its *capital*. In 1852 they declared themselves pledged to it; in 1854 it was looked upon by them, and also the Government, as *the fixed* rate, and in the latter part of that year the question was finally settled by the Government of India declaring that, in pursuance of the orders of the Directors, this *fixed* rate *shall be continued to be paid half-yearly*. This correspondence explains why in 1855 and 1856, when the Directors were told that we expected 8 per cent. interest and exchange at 2*s*. 1*d*. the rupee as long as the Fund lasted, they did not object. They knew we were entitled to it, and from that time up to the present the right of the Fund to the interest has never been questioned; on the contrary, it has been admitted. In 1859 it was discovered that the *Madras*

Fund had invested a portion of its subscriptions at a discount, and thus obtained more than 8 per cent. interest, and hence the following proceedings of the Government of India, dated 13th May 1859 :—

"OBSERVATIONS.—On the 12th of March 1855 the Accountant-General to "the Government of Madras reported, with reference to rules 102 and 103 of "the Madras Military Fund, that the Directors of the Fund contemplated the "investment in paper of the 4 per cent. loan of a sum of 15 lakhs of rupees "out of the balance at credit of the Fund in the Madras books. On the 2nd "April following the Government of Fort Saint George was informed that such "an arrangement was objectionable, leading, as it might, to speculation and "possibly to loss to the Fund, and subjecting, as it did, the Government to the "payment of a larger amount of donation than *could fairly be claimed by the "Fund;* further, that with reference to the practice now prevailing in like "institutions in Bengal, it was desirable that the investment of the assets of "the Madras Military Fund in Government promissory notes, in the manner "indicated in article 103 of the Fund Rules, should be put a stop to, and that "the capital of the Fund should be invested in non-transferable treasury notes "bearing a fixed rate of 4 per cent. interest per annum, and a donation equal "to the difference between such rate of interest and *the fixed rate of 8 per cent. "allowed under the original rules.* * * *

* * * * * * *

"RESOLUTION.—The Governor-General in Council observes, from what "has been stated by the Accountant-General to the Government of Madras, "that there is a great probability, not only that the Military Fund, but that "the Civil Fund, Medical Fund, and possibly some other funds at all the "Presidencies have, by investment of their assets in Government securities "purchased at a discount, been placed in receipt of a larger amount of donation "from Government than they are *strictly entitled to,* and that the amount of "such over payments cannot be ascertained without careful inquiry in the offices "of the Accountants at the several presidencies, and in the offices of the several "Funds. His Lordship in Council accordingly desires that such an inquiry be "instituted."

104. These proceedings were reported to the Secretary of State the same year. Did he then deny that Government was "*pledged*" to pay us 8 per cent. on our capital, or assert that it "*could not be fairly claimed,*" or that it was not the "*fixed rate,*" or that we were not "*strictly entitled to it?*" Nothing of the sort. He endorsed the views of the Supreme Government, and decided that in future we should receive an amount equivalent to 8 per cent. on the capital of the Fund.

"I have received and considered in Council your Excellency's letter in this "department, dated the 26th January last, No. 17, and the papers forwarded "therewith, relative to the investment by certain of the Madras Service and "Charitable Funds of portions of their balances in Government promissory "notes.

"2. In their circular despatch dated the 4th July 1832, the Court of "Directors directed that the rate of interest on the *balances of all the Civil,* "Military, and Medical Funds (excepting only the Civil Service Annuity Fund) "should be reduced to 5 per cent. per annum, and *that on the 30th April of each "year* the several Funds should be granted as a donation 'a sum equivalent to "'the difference between the amount to which the grant of such interest and of "'interest at the rate now allowed would produce.'

"3. These orders appear to have been observed by the Managers of the "several Bengal and Bombay Funds; but at Madras the Civil Fund, Charity "Branch, the Military Fund, Medical Fund, and Male and Female Orphan "Asylums have, by means of the investment of portions of their balances in "Government promissory notes purchased at a discount, obtained donations on "larger nominal amounts than their actual balances.

"4. The investments in Government promissory notes by the Madras "Military Fund are stated to have been made between the years 1808 and 1841, "the additional donation thereby obtained, with compound interest to 30th April "1859, amounting to Rs. 66,031. The investments and donations in excess of "the authorized grants obtained by the other Funds are stated as follow :—

Investment made.	Additional donation obtained, with compound interest to 30th April 1859.
	Rs.
Madras Civil Fund, Charity Branch, in 1855	5,353
Medical Fund in 1815 to 1818	9,363
Military Orphan—	
Female Asylum in 1799 to 1848	2,218
Male Asylum in 1837 to 1851	3,256

"5. It is difficult to conceive how these irregular proceedings can for so "many years have escaped the attention of the Madras Government. After the "receipt by the several Governments of the circular despatch from the Court "of Directors, dated the 4th July 1832, no doubt could be entertained as to the "*mode in which the additional donation to make up the interest on the balances to* "8 *per cent. was to be calculated.* While, therefore, in regard to payments "previously made, I refrain from requiring a readjustment, I desire that all "donations in excess of the amount sanctioned by that despatch which have "been credited to the several Funds subsequently to its receipt by the Madras "Government may be immediately readjusted in account.

"6. The correct balances of the Funds being ascertained, the amounts "thereof on which additional donations *are to be paid to make up the interest to* "8 *per cent. must henceforth* be invariably invested in non-transferable treasury "notes."

105. On the passing of the 24 and 25 Vic., c. 55, in 1861, eight members of the Service memorialised the Secretary of State. They said—

"6. That all of the above offices (in schedule to 33 Geo. 3, c. 52) were "heretofore reserved by law exclusively for the service to which your "petitioners belong, and that the provisions of the said statute, by legalizing "a departure from the fundamental regulations of the Covenanted Civil "Service, are undeniably subversive of the most valuable privileges to which "your petitioners are by covenant entitled, and that whatever may be the "eventual effect they afford reasonable grounds for very grave apprehensions "on the part of your petitioners, and especially of the younger portion of "them, which, by unsettling their minds and creating anxiety respecting "their future prospects, must, if continued, prove highly detrimental to the "service of the State.

"7. That in proof that the loss anticipated by your petitioners will be "neither slight nor remote, they would point out that already, in accordance "with the new law, an officer not belonging to the Civil Service has been "appointed to one of the Secretaryships of the Government of India, an office "worth £5,000 per annum,—hitherto exclusively held by members of that "Service—and your petitioners apprehend that the provisions of the statute will "take effect chiefly and primarily in respect to the more valuable offices hitherto "reserved for the Civil Service, to none of which do your petitioners succeed "until after long and distinguished service.

"8. That your petitioners, while respectfully submitting to the decision "of the Legislature in the throwing open of the Civil Service for India, never- "theless feel assured that Her Majesty's Government and the Legislature "recognize as fully now as heretofore the propriety of not interfering with "the existing interests and reasonable expectations of public servants, and they "therefore trustfully submit their claim to the renewed assurance of that "compensation for their services to which they are, by their covenant, entitled.

"9. That your petitioners, in urging this claim, are aware that much "difference of opinion may exist as to the precise extent of injury which may

"accrue to each individual, and the consequent compensation to which he may "be justly entitled, but they submit that there can be no question as to the "direct injury done generally to their professional prospects and to the security "of their service funds, and the measure of compensation for which they "now earnestly press their claim is the assurance of the stability of those "funds, with such additional advantages on retirements as may compensate "for the injury to their professional prospects and the intermediate loss of "emoluments which they may probably expect to incur."

And then they add, as regards the Civil Fund—

"That this Fund has for several years been supported by the contri- "butions of the subscribers, with but little aid from Government; but if the "sources of its income are dried up by the operation of the statute recently "passed, there is no form of compensation which could be more equitably "selected than the guarantee by Government to all existing subscribers of "the benefits assured to them by the present rules, and they accordingly "pray for such a guarantee as will assure the continuance of the present "rates and conditions of pension at rates of subscription not higher than the "present."

106. The answer of the Secretary of State to this memorial was as follows, dated November 1862:—

"11. It only remains for me to convey to you the decision of Her "Majesty's Government as to the Bengal Civil Fund, the Madras Civil Fund, "Charity Branch, the Bombay Civil Fund, Provident Branch.

"12. There appears to be no ground for making any change in the "management of these Funds, which will consequently, as heretofore, remain "with the subscribers in regard to the assistance from the State. Her "Majesty's Government have *no intention of withdrawing the aid which has been "hitherto granted, and they see no reason for increasing it.* If the subscribers prefer "it, there would apparently be no objection to granting, in lieu of the present "indirect aids, an annual sum equal to the average of the donation during the "past five years, the future interest on the balance of the funds being in that "case fixed at 5 per cent., and the remittance at the same rate of exchange as "that fixed annually for the adjustment of transactions with the British "Exchequer.

"13. These changes may severally be brought into immediate operation, "and a copy of this despatch will be forwarded to the Governments of Madras "and Bombay respectively for the information and guidance of those "Governments."

107. The whole correspondence comes to this. Eight members of our Service complained that promises had been broken, contracts violated, and prospects damaged by Her Majesty's Government inducing Parliament to pass a certain Act. They expressed some apprehension that, in a similar manner, their important appointments would be taken away, and knowing that this would seriously affect the Fund, they asked for a guarantee of existing privileges at existing rates. But they never expressed any doubt as to their right to the 8 per cent. interest or other advantages contracted for with Government. To this the Secretary of State virtually answered,—It is true we have taken your appointments by statute, but as to your Funds we have no intention of withdrawing our aid, and you do not as yet seem to want it increased.

108. There has, however, been another interpretation given to it by the Government of India in the Bombay despatch, paragraphs 27-28:—

"27. Nor can we admit that the despatch of 1862 bears the meaning "which apparently Mr. Brown would attribute thereto. In view of certain "apprehended changes in their constitution, the Services had asked the Secre- "tary of State to guarantee the solvency of their funds. He replied that he "saw no reason to change the management of the funds, and added that—

"'Her Majesty's Government have no intention of withdrawing the aid which has been hitherto granted, and they see no reason for increasing it.'

"28. We must emphatically repudiate the inference that the Secretary "of State by this sentence estopped the Government from auditing the "accounts of the Funds, and correcting any ascertained departure from orders "or transgression of sanction; or that this simple intimation that the Secretary "of State had no intention of withdrawing certain aid, pledged the Govern- "ment to continue it for ever under all circumstances. On the contrary, it "seems to us that it is to be inferred from the terms in which this intention is "expressed, that Her Majesty's Government *had no doubt of their right to* "*withdraw or modify such aid at any time, should they see fit to do so.*"

109. The members of the Service need hardly be told that Mr. Brown did not say that it "estopped Government from correcting any ascertained "departure from orders or transgression of sanction, or that the simple intimation "that the Secretary of State had no intention of withdrawing certain aid pledged "the Government *to continue it for ever under all circumstances.*" This is simply the view the Government of India takes of the following sentence in Mr. Brown's report, where, having shown that certain modes of assistance had been granted without objection on the part of the Directors from 1830 and 1842, he added—

"It seems to be reasonable that the decision both of this question and "that of the right of the special subscriptions for children to be credited to the "8 per cent. capital should be allowed in favour of the Fund, on account of the "declaration of the Government of 25th November 1862 not to withdraw the "amount they have hitherto granted, though they see no reason for increasing "it."

110. Nor is it correct that the Secretary of State replied "that *he saw* "*no reason to change* the management of the Funds." He had no power to change the Funds, and never asserted its existence. And this is important, since, according to the canons of interpretation now employed by the Government of India, he meant by saying he "saw no reason to change," that he could do so if he wished. The first eight paragraphs are taken up with certain changes in the Annuity Fund. Paragraph 9 throws out the idea that owing to these changes there appeared no object in maintaining the Annuity Funds; paragraph 10 is that "before giving final orders on this point, however, Her "Majesty's Government are desirous of being furnished with your opinion as to "the expediency of closing the (Annuity) Funds." Then comes that part of the despatch regarding the Civil Funds, and in paragraph 12 the Secretary of State, instead of treating them like the Annuity Fund, said,—"There appears no "ground for making any change in the management of these Funds, which will "consequently, as heretofore, remain with the subscribers." In short, though the despatch might give rise to the impression that the Secretary of State for that time considered himself authorized to change the nature of the Annuity Fund, it affords no basis for the statement that he held the same opinion as regards the Civil Fund. But in truth he claimed no power at all, and when it was brought to his notice that such a claim was of doubtful legality, he repudiated any such intention as is now attributed to him, and said in despatch No. 61 of 1866—

"I must observe that it was never contemplated to make any change "in regard to the management of the Civil Service Annuity Funds without the "full concurrence of the subscribers to those Funds, and as they are opposed "to any change in this respect the management of these institutions must "remain as at present."

111. The proper interpretation of this despatch then, is that the Secretary of State, in answering the memorial, intended to grant certain concessions to the members of the Service; he never thought that the members would not acquiesce in proposals which to his mind would benefit them. This idea governs the whole despatch, and in saying that Government had no intention of withdrawing the aid which it had already granted, the Secretary of State

never imagined that he was asserting a right to deprive the members of the Service of their existing rights; but on the contrary he intended, as he had made reparation for the apprehended injury to the Annuity Fund by several concessions, to set at rest all apprehensions of injury to the Civil Fund by a promise to fulfil the existing engagements. And this interpretation is the only interpretation consistent with the frequent disclaimers by the Home Government. Take, for example, that of 1867, despatch No. 2:—

"3. As the Government is not responsible for the solvency of the Civil "Provident Fund, any alteration in the rules *affecting its financial position must* "*emanate from the subscribers*, and *any interference* on the part of Government does "not appear to be called for."

112. No reference is made to any other despatch in support of the present interpretation: all are overlooked. Does the Government of India mean to say that the Secretary of State couched his reply in language which was meant to support such a claim as had never been made since the origin of the Fund? If so, such was not the opinion of the Government at that time; but apparently things have altered since then. Formerly the Government spoke of its engagements with us as a matter to which it was "pledged," and to the fulfilment of which we were "entitled." Now everything is either a "voluntary and gratuitous concession," or a "voluntary donation."

113. The alternative proposed by the Secretary of State was not at first favourably received by the members of the Service. The proceedings of the first half-yearly meeting in 1863 contain as follows:—

"With reference to the recent memorial, in which, as regarded the Civil "Fund, 'the guarantee' by Government to all existing subscribers of the benefits "secured to them by the present rules at rates not higher than the present was "solicited, the Government of India have transmitted to the Managers, with "a request that the sense of the Service may be taken thereon, the following "extract from the Secretary of State's despatch of the 25th November 1862, "No. 193:—

"'Her Majesty's Government have no intention of withdrawing the aid "'which has been hitherto granted, and they see no reason for increasing it. If "'the subscribers prefer it, there would apparently be no objection to granting, "'in lieu of the present indirect aids, an annual sum equal to the average of "'the donations during the past five years, the future interest on the balance of "'the Funds being in that case fixed at 5 per cent., and the remittance of the "'sums required by the Fund in England being made at the same rate of "'exchange as that fixed annually for the adjustment of transactions with the "'British Exchequer.'

"The adoption of the above suggestion would involve the acceptance of "a fixed annual donation equal to 4 per cent. on the average capital of the "Ordinary branch for the last five years in lieu of the difference between interest "at 8 per cent. (as at present) and 5 per cent. (as proposed), *i.e.* in lieu of "interest at 3 per cent. on the amount at which the capital in question will stand "in future years. The Managers observe that the capital of the Ordinary branch "is rapidly increasing, and will necessarily increase for years to come while "the Fund is under approach to maturity.

"They regard the suggested measure, therefore, as obviously disadvan- "tageous, and do not recommend its adoption."

114. The proposal was, however, handed over to a committee, which, on the 21st of May, reported generally in favour of it; at the same time they expressed a hope that the whole question would be referred to an Actuary. The committee also referred to some portions of the despatch as ambiguous and requiring

explanation. In consequence of this report the question was referred to Mr. Brown, and Government was addressed on the doubtful portions of the despatch on the 1st of September, as follows:—

"3. The Managers have already, with the sanction of the subscribers, "requested their agents in London to obtain the opinion of a professional "Actuary as to the effect which the adoption of the suggested arrangement "would have upon the affairs of the institution; but there are two points "upon which they would wish to be informed whether they rightly understand "the intention of the Secretary of State.

"4. The Managers presume that, in indicating the interest (5 per cent.) "to be allowed under the suggested arrangements 'on the balance of the "'Funds,' reference is made by the Secretary of State to the whole balance "of the Fund, without any distinction between the classes of funds known as "'Ordinary' and 'Additional' respectively. *On both classes of funds the "Government now allows 4 per cent. interest, but on the capital termed 'Ordinary,' "belonging to that branch of the Fund which represents the original objects of the "institution before their enlargement in* 1850, *the Government also allows an annual "donation calculated at 4 per cent.* The Managers think they are right in "supposing that the intention of the Secretary of State is to change the "present uniform rate of interest at 4 per cent. allowed on both classes of "funds into a uniform rate of 5 per cent. on the same classes of funds. "With the object, however, of avoiding the possibility of a misunderstanding, "they desire me to ask whether their view of the Secretary of State's meaning "is correct.

"5. The Managers also presume that the adoption of the measure "suggested by the Secretary of State *will not involve any alteration in the arrange-"ment under which the advances made in England for the payment of pensions are now "recovered from the Fund twelve months after date with interest at 4 per cent.* The "Managers would wish to be assured that in this respect they are right in "presuming on the maintenance of existing arrangements."

And again on the same date:—

"The Managers also desire me to request the favour of your informing "them whether, in the event of certain funds from the Additional to the "Ordinary branch of the institution being effected, as per correspondence "quoted below, the 4 per cent. donation claimable on the amount so trans-"ferred would be allowed to be added to the fixed donation proposed to be "calculated on the average of the past five years. The expected advantage "to the institution from the proposed transfer of funds consisted of the "donation at 4 per cent. receivable thereon, and to secure this advantage, "under the alteration of circumstances which has been suggested by the Secre-"tary of State, it would of course be necessary to allow the donation receiv-"able on the transferred funds to be added to the fixed donation proposed to "be calculated on the average of the past five years. The question, in fact, "amounts to this,—whether, by adopting the Secretary of State's suggestion, "which forms the subject of this letter, the Fund will or will not debar itself "from the benefit of a totally distinct arrangement already sanctioned condi-"tionally on independent grounds. The Managers hope that in the event of "the transfer of funds being carried out, the enjoyment of the benefit thereof "will be made compatible with the adoption of the suggestion now under "consideration by permission being given to add the 4 per cent. donation on "the transferred funds to the donation proposed to be calculated on the average "of the past five years."

115. In short, the Managers said, we get 8 per cent. on our ordinary capital, 4 per cent. on our additional capital. Further, we pay our pensions by advances at 2*s.* 1*d.* per rupee, repayable in India after twelve months at 4 per

cent. interest. Will these latter relations remain untouched? The Secretary of State agreed: neither he nor the Government of India denied our right. He said:—

"1. I have considered in Council your Financial letter dated the 3rd "October last, No. 122, forwarding a communication from the Managers of "the Civil Fund at your presidency, requesting information relative to the aid "which would be in future afforded to that Fund if the arrangement contem- "plated in paragraph 12 of my Financial despatch dated the 25th November "1862, No. 193, were carried into effect.

"2. *In regard to the first point on which information is desired, you will "acquaint the Managers that interest at the rate of 5 per cent. may be allowed on the "whole balance of the Fund, whether subscribed for 'Ordinary' or the 'Additional' "advantages already sanctioned.*

"3. *In reply to the second point, they may be informed that the advances to "be made in England for the payment of pensions may continue to be repaid twelve "months after the date of the receipt for the amount, with interest at 4 per cent.*

"4. You also state that the Managers of the Fund express a hope 'that "'in the event of the transfer being sanctioned from the Additional to the "'Ordinary branch of the institution, which was referred to in the correspond- "'ence noted on the margin, the 4 per cent donation which will be claimable "'retrospectively on the amount so transferred will be allowed to be taken into "'account in determining the future fixed donation proposed to be calculated "'on the average of the past five years.'

"5. Her Majesty's Government would not object to accede to this request; "but I have to observe that the information called for in the Financial "despatch dated the 27th December 1862, No. 217, has not yet been furnished, "and until the amount to be transferred under the authority therein "conveyed shall have been reported to me and approved, no decision must be "passed by you in regard thereto."

116. Mr Brown was on the whole favourable to the Secretary of State's proposal. He said:—

"189. The deficit by the new 5 per cent. valuation would on the "whole Fund be £133,367, and *by the old valuation*, 8 *per cent. for Ordinary and "4 per cent. for Additional branch*, would be Rs. 11,06,162 or £108,023. But "in the former we have brought into account no less than £341,650 for liabilities "to future wives and children which are not included in the latter. This large "item is partly met by the enhanced value of the subscriptions, which includes "the probable increase on batchelors marrying; but on the whole I look upon "the comparison as decidedly favourable to the change proposed."

The Managers did not accept the views of the Actuary, and referred the question to him again. At the same time they addressed Government as follows:—

"Referring to the correspondence noted below, I am directed by the "Managers of the Bengal Civil Fund to submit the accompanying copy of "a report by an Actuary in London (Mr. S. Brown, of the Guardian Assurance "Office), and to invite the attention of the Government of India to the remark "contained in paragraphs 146 and 178-193, on the subject of the offer made in "the Secretary of State's despatch No. 193, dated the 25th November 1862, to "give to the Fund a fixed yearly donation in lieu of the privileged interest now "drawn as a donation on the capital of the Ordinary branch; to allow for the "future 5 per cent. interest on the balance of the funds of the institution; and "to permit remittances to be made to England at the rate of exchange fixed "annually for transactions with the British Exchequer.

"The Managers quite agree in the opinion expressed by the Actuary "(paragraph 179), to the effect that, 'if this proposal can be accepted without "'pecuniary detriment to the Fund, the other advantages (simplification of "'accounts and of system of valuation) will be very great;' but they feel con- "siderable hesitation in acting as yet on the opinion expressed by him (paragraphs "185 and 189) to the effect that, 'on the whole the advantages are decidedly "'in favour of the acceptance of the proposal;' for from a calculation made in "this office, based on the actual results of the last two years (April 1863 to "April 1865), as compared with the results which would have been produced "had the arrangement been carried out as proposed by the Actuary from April "1863, it appears that the Fund would have been a loser to a very considerable "extent.

"Under these circumstances the Managers have deemed it necessary again "to consult the Actuary on the subject, with special reference to the calculated "results of the two years in question.

"Meantime I am desired to solicit a prolongation of the offer made by "the Secretary of State, until such time as it may be found possible to intro- "duce the arrangement without pecuniary detriment to the Fund.

"The fact that the Bengal Civil Fund has been, and is still engaged in "making up a large deficiency of realized capital, is the sole cause of the present "difficulty in taking advantage of the offer made by the Secretary of State, for "the arrangement contemplates the calculation of the future annual donation on "the *average interest receipts of the last five years*, and that average is of course "greatly less than it would have been had there not been so large a deficiency "of realized capital.

"The Managers feel sure that the above explanation of the cause of the "present difficulty will be regarded as a reasonable ground for the request now "made, for a prolongation of the offer of the Secretary of State, until such time "as it can be accepted without pecuniary detriment to the Fund. The proposed "measure offers so great advantage in respect of simplification of accounts and "valuations, that the Managers would regret much if the difficulty in respect of "its present adoption were to deprive the Fund of the chance of benefiting by "it hereafter.

"There is one point in regard to the proposed arrangement which will "have to be settled before its introduction; and the Managers think it is well "to take the present opportunity of bringing it under notice, in view to the "obtainment of orders on the subject.

"The point in question is discussed in paragraphs 190 and 191 of the "Actuary's report. Mr. Brown points out that 'if the number of members in "'the Civil Service should be materially increased beyond the present establish- "'ment, the proportion of their subscriptions under the old rules would tend "'considerably to augment the 8 per cent. Fund, under which the Government "'would now allow the annual donation of 4 per cent.' 'But if,' he goes on to "say, 'the donation is fixed, there would be no corresponding increase of interest "'under the new proposition.' He proceeds to suggest (paragraph 191), that "perhaps the Government might be disposed to agree that, should the numbers "of the Bengal Civil Servants be permanently increased compared with the "present number, some corresponding increase should be made in the fixed "annual donation,' adding that 'justice to the present members seems to "'require some such concession, as their interest in the fixed donation would "'otherwise be diminished by sharing it with increasing numbers of new "'members.'

"The reasonableness of asking that some understanding on this point may "be come to is so obvious from the above statement of the case, that it is "unnecessary for the Managers to do more than submit the matter as represented "above for the favourable consideration of the Government. It may be noted "that the increase in the members of the Service has been as per margin, and

"these results will perhaps help to show the necessity of providing for the "contingency of such increase in the future."

117. The answer came in August 1866. The Secretary of State admitted that Government assistance was not, as is now asserted by the Supreme Government, certain *definite* assets, but interest varying with the *balance* of the Fund. He agreed to postpone the acceptance of his offer, but declined to assent to the proposal made in paragraph 193 of the Actuary's report. He said :—

"I have considered in Council your Financial letter dated the 2nd February "last, No 20, forwarding copy of a letter from the Secretary of the Bengal "Civil Fund, relative to the grant to the Fund by Government of a fixed "yearly donation in lieu of the aid which it now receives.

"2. The *Managers consider that as the aid given by Government is dependent "on the balance of the Fund, which is steadily increasing under the high rates of "subscription imposed in* 1850, *the Fund would be placed at a disadvantage if an "annual donation were now fixed on the average* of the indirect aids of the past five "years. While, therefore, the Managers are sensible of the advantages that "would result from the proposed change in regard to the simplification of "accounts and valuations, they solicit that the change may be postponed until "it can be made without loss to the Fund. They also express a hope that if "the annual donation be fixed, and a permanent increase subsequently made to "the number of Civil Servants, a corresponding increase may be made to the "annual donation.

"3. In the Financial despatch to India dated the 25th November 1862, "No. 163, no date was specified within which the acceptance or rejection of the "proposed change must be notified, and the question may therefore remain in "abeyance for the present; but I must decline to give any undertaking in "regard to a *possible future increase* in the number of Civil Servants."

118. The refusal of the Secretary of State to give any guarantee that the donation would be increased in proportion with any future increase in the number of the subscribers placed it beyond the power of the Managers to recommend the proposals to the Service, and they informed Government that it was impossible to accept them in their entirety. The first portion of the letter contains an elaborate comparison of the Government subscriptions to the Madras, Bombay, and Bengal Funds. It was shown that though the subscriptions in Bengal were nearly three times as large as the combined subscriptions of Bombay and Madras, the Government aid to the Bengal Fund was not one-half that of the Bombay and Madras Funds. The assistance was shown in detail, and is as follows :—

The contributions entered for 1864-65 follows :—

	To 4 per cent. Fund.	To additional Fund.	Total
	Rs.	Rs.	Rs.
Madras	28,700	54,507	83,207
Bombay	58,926	16,245	75,171
Bengal	2,46,449	2,23,856	4,70,305

The amount of donation (Government) for each Fund calculated as follows :—

	Rs.	Rs.
Madras—Privileged capital of Charity Branch on 1st January 1865	.....	67,15,790
The 4 per cent. donation on which is ...	2,68,631	
Bombay—Privileged capital of Provident Fund on 1st May 1865	.....	40,80,941
The 4 per cent. donation on which is ...	1,63,237	
Bengal—Privileged capital of Ordinary Branch on 1st May 1865	.....	36,60,803
The 4 per cent. donation on which is ...	1,46,432	

to this was added the donation receivable on the amount, the transfer of which from the Additional to the Ordinary branch had been recently sanctioned. The donation on this amount similarly calculated was Rs. 46,537, which, with the amount previously given, made a total of Rs. 1,92,769.

The letter then went on to say—

"The Managers would earnestly solicit attention to the figures given above. "They show that the Bengal Fund, though charged with the provision of "pensionary benefits for the families of an establishment of Civil Servants "exceeding by 81 per cent. the combined establishments of Madras and "Bombay, and though raising for that object a subscription income nearly "three times as large as the combined subscription income of Madras and "Bombay, receives a Government donation considerably less than one-half of "that given to the Madras and Bombay Funds.

"*And this disproportion becomes all the more entitled to consideration when the "reason of it is explained. The Government aid is given in the shape of privileged "interest on capital, and it is the misfortune, not the fault, of the present generation* "of subscribers that the Bengal Fund is so pre-eminently deficient in capital. "Left in 1850 (when the first professional examination of the state of the Fund "was made) with a deficiency of nearly nine lakhs in the value of the pensions "actually assigned to the families of their deceased predecessors, and without "a farthing to represent the accrued interest of the living subscribers and of "those who had retired with reversionary interests, the members of the Service "did not hesitate to assume the enormous responsibility thus devolved on them. "Since 1850 they have striven, by the continued maintenance of a high rate of "subscription, unequalled in any other presidency, to place the finances of the "institution on a satisfactory footing. Their efforts have not been altogether "without success; *but it has been a grievous addition to their burden that the aid of "Government is measured, not by the efforts which they themselves are making, but by "the capital in which their predecessors left them so deficient.* And even now, after "continuing for so long a time the present high rates of subscription, and after "crediting the Fund with the full calculated value of the future subscriptions "of existing members to the end of their lives at the same high rates, it has "been calculated by the London Actuary that the liabilities of the institution "exceeds its assets by nearly twelve lakhs.

"The arrangement of 1862, as explained in the subsequent despatch of "10th December 1863, No. 225, comprised the following provisions, viz.

(1) The Government donation—interest (4 per cent.) to be exchanged for a fixed donation calculated on the average of the last five years.

(2) The interest on the "Ordinary" capital to be raised from 4 per cent. to 5 per cent.

(3) Interest at 5 per cent. to be allowed on the "Additional" capital.

(4) The rate of exchange to be the rate fixed for transactions with the British Exchequer.

"All that the Managers now ask is to be allowed to introduce the provisions "numbered (3) and (4) above, and they earnestly hope that the moderate "character of their request, no less than the peculiarly unfortunate position "of the Bengal Civil Fund, will ensure a favourable consideration of the "application.

"The direct pecuniary benefit to the Fund from the third provision will "be the difference between 5 per cent. interest and the interest obtainable by "investment in Government paper in the market. The indirect benefit will "consist in the release of the Fund from dependence on a varying market for "the investment of the additional capital; and this indirect benefit will be "highly valued. The constant variation in the market value of the paper

"already possessed by the Fund is a source of uncertainty and inconvenience in "the valuation of the assets of the institution, and the uncertainty and "inconvenience are still greater in respect of the valuation of the future income. "To represent the value in present money of future subscriptions, it is neces- "sary to assume a certain rate of interest at which such income, when realized, "will be improvable; and the same assumed rate of probable interest has to "be adopted in calculating the present value of all the liabilities of the Fund, "whether incumbent or contingent. For all these calculations elaborate tables "have to be prepared from time to time by a professional Actuary in London; "and if the assumed rate of interest should be wrong, the whole tables and "calculations of the Fund will be wrong also.

"The Managers attach great importance to the indirect benefit to the "Fund which would result from the adoption of a known fixed rate of interest. "If sanctioned, effect would be given to this arrangement by selling all the avail- "able paper possessed by the Fund and placing its proceeds (about Rs. 25,76,878) "in the hands of Government under book-debt account at 5 per cent. interest.

"As regards the fourth provision, the Government is aware that the rate "of exchange hitherto allowed to the Bengal Fund is 2*s*. 1*d*. per sicca rupee "(one pound sterling for 10·24 standard rupees), which is of course less favour- "able to the Fund than the rate of 2*s*. to the rupee (one pound sterling for "ten rupees), at which the transactions with the British Exchequer have "recently been adjusted.

"But when it is considered that the Government allows both to the Madras "and Bombay Funds the still more favourable rate at 2*s*. 3*d*. per rupee (or "one pound sterling for 8⅔ rupees), the benefit to be conceded to the Bengal "Civil Fund under the proposed alteration of the exchange rate will not "appear large."

119. In May 1867 the answer of the Secretary of State arrived. It was as follows:—

"I have considered in Council your Financial letter dated the 15th "February last, No. 56, forwarding copy of a letter from the Honorary Secretary "to the Bengal Civil Fund, dated the 10th January 1867, bringing to notice "the present unfavourable position of the Fund, soliciting that interest at 5 per "cent. may be allowed on the additional capital which will be deposited with "the Government, and that the rate of exchange be the rate fixed for the "adjustment of transactions with the British exchange.

"2. It appears from the papers forwarded by you that the Managers of "the Fund propose to sell the securities in which the additional capital is now "invested, and to place the proceeds, estimated to Rs. 25,76,878, in the hands "of Government under book account at 5 per cent. interest.

3. "To this arrangement I have no objection.

"4. The Managers also request that *the rate of exchange for the adjustment "of transactions with the Fund* may be fixed at two shillings the rupee, at which "rate transactions with the British Exchequer have recently been adjusted.

"5. It was intended, as stated in paragraph 12 of the Financial despatch "to the Government of India dated the 25th November 1862, page 193, that "the rate should be that fixed annually for the adjustment of transactions with "the British Exchequer; but as a varying rate might cause inconvenience, "I am willing to allow an exchange of two shillings the rupee to be fixed, as "requested."

120. This correspondence may be summarised in the following propositions:—

(*a*) That in 1862 the Secretary of State guaranteed the existing contributions, and offered in lieu a definite sum based on the average of five years with 5 per cent. on the balance of the Fund.

(*b*) That in answer, the Managers brought to his notice that we got 8 per cent. on the Ordinary and 4 per cent. on Additional capital, and asked him if the 5 per cent. would cover both Funds, and the existing arrangements regarding exchange on all our home payments at 2*s.* 1*d.* per sicca rupee would continue, and he said "*Yes.*"

(*c*) That they pointed out to the Secretary of State that the Government aid was given in the shape of interest on the *capital* of the Fund; that the capital was increasing, and with it the Government aid, and consequently an average on the five past years would be unfair to the Fund. And they asked—

(1) That acceptance might be postponed until it would be favourable to the Fund, and

(2) That it might vary directly as the number of subscribers.

(*d*) That the Secretary of State agreed to (*c*) 1 but declined (*c*) 2, and the Managers did not accept the proposals. That they pointed out that though the Bengal subscriptions were three times as large as those of Bombay and Madras, that the Government aid was only one-half as much, and the exchange only 2*s.* 1*d.* the sicca rupee instead of 2*s.* 3*d.*, and they asked for 5 per cent. interest on the "Additional capital," and exchange at rates fixed for transactions with the British Exchequer.

(*e*) That the Secretary of State, knowing we got 8 per cent. on the original, granted 5 per cent. on the *Additional* capital and a *fixed* rate of exchange at 2*s.* the rupee.

121. In short the Secretary of State made a proposition which would have entailed serious loss to the Fund, and it was declined. In the correspondence which ensued it was proved that, measured by subscriptions, the Government aid to each member of the Bengal Fund was only one-sixth of that to the members in Madras and Bombay; that the exchange was more unfavourable, and this was made the basis of a claim to relief, but not to such an extent as would render their position as favourable as that of Civilians in those presidencies. The relief was granted. There does not seem any reason to impute ignorance or blame to either party: both acted cautiously; and evidently it was the hardship of the existing arrangements to the subscribers in Bengal that induced the Secretary of State to afford them relief. This, however, is not the view of the writer of the "examination" as given at page 64, or of the present Government of India, which is given as follows in the Bengal despatch:—

REMARKS.

The Members expressed their apprehension that they would lose their appointments—an apprehension that has turned out to be true in the Financial Department.

"In 1862 the Secretary of State, in "replying to a representation made to "him by the Members of the Covenanted Civil Service of the three presidencies, upon the subject of certain "apprehended changes in the constitution of the Services, offered, if the "subscribers preferred it, to grant in "lieu of the indirect aid from Government theretofore enjoyed by them an "annual sum equal to the average of "the Government donations during "the past five years, the future interest "on the balances of the Funds being in "this case fixed at 5 per cent., and the "remittance of the sums required by "the Funds in England being made at

There is no doubt about it.

The Secretary of State expressly allowed it in his despatch, dated 16th December 1863. He said :—

"2. In regard to the first point *on* "*which information is desired*, you will "acquaint the Managers that interest at "the rate of 5 per cent. may be allowed "on the *whole balances* of the Fund, "whether subscribed for 'Ordinary' or "the additional advantages already "sanctioned."

Article 5 of Mr. Westland's report does not support the above view. Mr. Westland says, page 47, paragraph 13,—

"The Managers first of all inquire "whether the Secretary of State really "meant to give 5 per cent. in the "Additional branch as well as in the "Ordinary * * * * The Secre- "tary of State answered (16th Decem- "ber 1863) that the 5 per cent. offered "in the previous despatch was intended "to be given upon both the Ordinary "and Additional capitals."

The numerous charges of ignorance brought against the Service, Managers, previous Governments, and Secretaries of State, require no defence at my hands.

"the rate of exchange fixed annually "for the adjustment of transactions "with the British Exchequer

"12. This offer, and its results as "affecting the Bengal Civil Fund, are "elaborately discussed in article 5 of "the examination, in which it is "clearly shown that its acceptance, "even supposing that the Secretary "of State intended to offer 5 per cent. "upon unprivileged as well as the pri- "vileged balances, *which may perhaps* "*be doubted*, would have involved "heavy loss to the Bengal Service.

"We have not inquired into the "action taken by the Trustees of the "other two Funds upon the receipt of "this offer, but it is probably well for "the Government that they did not "accept it.

"13. So far as the Bengal Service "were concerned, the correspondence "ended only in the gratuitous conces- "sion to them, by the Secretary of "State's Financial despatch No. 168, "dated 8th May 1867, of the privilege "rate of 5 per cent. on their unprivi- "leged funds, and of an increased rate "of donation interest.

"The proceedings of the Managers "and of the Actuary, and we may "perhaps add of the Government, "manifest no complete understanding "of the conditions of the problems "with which they are dealing; and "there seems reason to fear that the "concessions finally made to the Fund "were granted without full appreci- "ation of their importance."

122. During the same years a long correspondence ensued between the Managers and the Secretary of State regarding our right to 8 per cent. instead of 4, on some nine lakhs of rupees. The facts are, that when the constitution of the Fund was revised in 1849, the liabilities were Rs. 8,95,744 more than the capital. In 1862 the Managers claimed that an amount equal to the deficit should be treated as capital of the ordinary branch, and carry interest at 8 per cent. instead of 4 per cent. The Managers said :—

"Prior to 1850, when the objects of the Fund were essentially charitable, "being confined to the provision of certain benefits of such families of "deceased subscribers as might be left without adequate private means, "the *Government allowed* 8 *per cent. interest on all the funds subscribed for* "*that object.*

"In 1850, when the objects of the Fund were enlarged and the rates of "subscription increased, the Court of Directors declined to allow the same high "rate of interest '*on the additional subscriptions required for the new objects of the* "*Fund.*' Under this order a certain portion only of the income of the Fund,

" representing the amount required for the original objects, was allowed to stand " at 8 per cent. interest. * * * * * * * * * * *

" The capital of the Fund fell short of the value of the liabilities then " actually incumbent by Rs. 8,95,744, and to represent the due proportion of " the value of contingent liabilities there was no capital at all.

" The Members of the Service undertook the responsibility of making good " the above deficiency, submitting with that object to a very high rate of tax- " ation. These proceedings were approved by the Hon'ble Court of Directors " in a despatch, No. 34, dated 4th September 1850. The whole of this extra " tax, however, has been credited in the Fund's accounts as if paid on account " of the additional benefit Fund, instead of being shown, as it clearly should " have been, as a subscription to the original Fund, until the value of the exist- " ing pensions on that Fund had been paid up; and the consequence has been " that, although the deficiency has been much more than subscribed by the " Service, and considerable progress has been made towards the establishment " of a reserve capital, the accounts still exhibit a deficit in the original or 8 per " cent. Fund, and a large surplus of Rs. 13,27,172 in the additional or 4 per " cent. Fund.

" Had the matter been properly represented to Government in 1850, there " can be no doubt, the Managers think, that no objection would have been made " to the admission of all payments on account of this deficit to benefit by the " higher rate of interest which they would have carried had they been paid in, " as they should have been, at an earlier period of the Fund's existence.

" Through inadvertence, however, no such representation was made, and " the debt in question has been paid off out of the 8 per cent. funds contributed " to meet current obligations. *The Fund has lost all the advantage which would* " *have accrued from the higher rate of interest on this sum in past years, and now finds* " *itself, as might have been expected, not only without any part of its unappropriated* " *capital bearing interest at 8 per cent., but with a still existing deficiency of funds* " *of that description.*"

123. The claim was favourably received by Government and recommended to the consideration of the Secretary of State. He admitted its justness; but before passing final orders, he required information on certain points, and wrote on the 27th of December 1862:—

" I have received and considered in Council your Financial letter, dated " the 26th May 1862, No. 75, forwarding a letter from the Managers of the " Bengal Civil Fund, soliciting authority for the conversion of Rs. 8,95,744 *of* " *the balance of that institution, now bearing interest at 4 per cent., into capital of a* " *like amount at 8 per cent. interest.*

" 2. I am desirous of being informed upon what ground the deficit in " 1850 is stated at Rs. 8,95,744; the computation of the Actuaries who were " consulted in this country having produced amounts differing considerably " from that sum, the deficit in 1850 having been estimated by the late " Mr. Griffith Davies at Rs. 6,10,272, while the estimate of Mr. Neison was " yet more favourable.

" 3. I also desire to know how far this deficit has been met by the addi- " tional subscriptions realized specifically for the purpose of the original Fund, " upon which the Government have been paying 8 per cent. interest.

" 4. When the amount of the deficit in the capital, applicable to the " original objects of the Funds, shall have been accurately ascertained and " transferred, I sanction the payment of the full rate of 8 per cent. interest on " that amount, but only from the date of the recent application of the Managers."

124. On receipt of this despatch the Secretary to the Fund prepared a memorandum on the subject, and submitted it to the Managers, who determined on referring the question to an Actuary for opinion. Subsequently they

addressed the Government, informing it of this intention, and with the letter they forwarded a note by Mr. Monteath, showing the manner in which they viewed the question. The following extract is important:—

"It was perhaps to be regretted, I observed, that the deficit in the appro-"priated Fund in 1850 had been made the basis of our present claim. It was "so made simply because it was a tangible determinable amount as distin-"guished from the less tangible but much larger amount by which the Fund, "as a whole, fell short of its normal amount realized capital. In submitting "the application it was explained by the Managers that the deficit in the "Appropriated Fund stood side by side with the less tangible but equally real "deficiency of funds 'to represent the due proportion of the value of Con-"'tingent liabilities;' and in bringing the former *forward as a moderate measure "of their present claim, it was assumed (what is really the case) that the funds by "which it has since been partially defrayed would have been entitled to the* 8 *per cent. "interest independently of the use actually made of them; and that had they, as they "might have* without exceeding normal limits, been held as representing accrued "interests of subscribers, *the deficit of appropriated funds in* 1850 *would still have "remained unliquidated.*"

125. The Actuary's report did not arrive until 1865, and in November of that year the Managers wrote to Government as follows:—

"Referring to the correspondence noted on the margin, I am desired "by the Managers to submit the accompanying copy of a report on the Bengal "Civil Fund, recently obtained from Mr. Brown, Actuary of the Guardian "Assurance Company, and to invite the attention of the Government of India to "paragraphs 157—177 thereof, containing remarks on the subject of the appli-"cation made by the Managers in April 1862 for the transfer of Rs. 8,95,744 "of capital, now standing in the 'Additional' or 4 per cent. head, to the "'Ordinary' or 8 per cent. head.

"3. In the original application made by the Managers, it was stated that "in 1850 'the capital of the Fund fell short of the value of the liabilities then "'actually incumbent by Rs. 8,95,744,' and with reference to that figure the "Secretary of State inquired 'upon what ground the deficit in 1850 is stated "'at Rs. 8,95,744; the computation of the Actuaries, who were consulted in this "'country, having produced amounts differing considerably from that sum, the "'deficit in 1850 having been estimated by the late Mr. Griffith Davies at "'Rs. 6,10,272, while the estimate of Mr. Neison was yet more favourable.' On "this point it may be explained that the figure above noticed was obtained by "an estimate made of the state of the Fund for the 30th April 1850, which "was adopted in preference to the estimates furnished either by Mr. Davies or "Mr. Neison, because the data on which the latter were based had been found "to be in many respects incorrect. These errors will be found noticed in pages "13, 14, and 15 of the printed report, of which a copy was forwarded with "my letter of 7th July 1863, and on this subject the Actuary has now observed "that 'there can be no doubt that on the 30th April 1850 the deficit to be made "'up would be Rs. 8,95,744, even after throwing in the small amount standing "'to the credit of the 4 per cent. Fund.' The estimate originally submitted "by the Managers, which gave rise to the Secretary of State's inquiry, has "therefore been fully corroborated by the Actuary's report.

"4. The other point on which the Secretary of State desired information "was in regard to 'how far this deficit has been met by the additional subscrip-"'tions realized specifically for the purposes of the original Fund upon which "'the Government have been paying 8 per cent. interest.' In the letter of the "30th April 1862 it was stated by the Managers that 'the debt in ques-"'tion has been paid off out of the 8 per cent. funds contributed to meet "'current obligations,' or, in other words, that the funds which ought to have "stood in the unappropriated head of the Ordinary Branch to represent a due

"proportion of the value of the contingent liabilities were placed under the "appropriated head to meet the above-mentioned deficit. *The representation of "the Managers was to the effect that, although the original deficit in the Funds set "apart to meet incumbent pensions had then been (nearly) made up, the result had "been attained by the appropriation to that object of Funds which were equally required "to represent the reversionary interests of those who subscribed them and equally "entitled, had they been so used, to the privileged interest of* 8 *per cent.* The "deficit had, so to speak, been merely transferred from the appropriated to the "unappropriated head of the Ordinary Branch; and this fact could not, it was "presumed, be regarded as in any way affecting the merits of the claim.

* * * *

"7. The original sums which, as shown above, might have been trans- "ferred, will be found, if calculated at the actual lower rate of 4 per cent. "interest, to have amounted in April 1862 to only Rs. 6,10,019, so that the "Fund at that date had lost the difference, viz. Rs. 3,00,798,—a sum which "of course represents also the extent to which the Government had profited "by the laches of the Fund.

"8. The Managers, it will be remembered, did not ask the Government "to make good this loss, but they asked that the Fund might be allowed to "redeem its error, so far as the future was concerned, by transferring to the "8 per cent. head the sum of Rs. 8,95,744; and although the Actuary's figures "might warrant the substitution of the larger sum of Rs. 9,10,817, the Mana- "gers think it better to retain the amount of the original claim, the transfer of "which, with effect from the date of the original application (April 1862), has "already been conditionally sanctioned by the Secretary of State."

126. The transfer was finally ordered by the Secretary of State in his despatch No. 84, 1866, as follows:—

"I have considered in Council your Financial letter, dated the 21st Decem- "ber 1865, No. 188, forwarding a letter from the Honorary Secretary of the "Bengal Civil Fund, relative to the application of the Managers in April 1862, "for sanction to the *conversion of Rs.* 8,95,744 *of the balance of the Fund, bearing "interest at* 4 *per cent., into capital of a like amount at* 8 *per cent. interest per "annum.*"

"2. Under the explanation now furnished, confirmed as it is by the "report of Mr. Brown (Actuary of the Guardian Assurance Company), dated "the 27th February 1865, as to the amount of the deficit in the assets of the "Fund on the 30th April 1850, I sanction the grant of 8 per cent. interest on "the sum of Rs. 8,95,744, with effect from the 30th April 1862, according to "the intention expressed in the Financial despatch to your Government, dated "the 27th December 1862, No. 217."

It is of the greatest importance to thoroughly grasp the above correspond- ence. *The claim to a transfer was distinctly based on the ground that we were "entitled" to the* 8 *per cent. interest independently of any use actually made of the "amount.*" No concession was asked; none made.

127. The opinion held by the Government of India about this transaction has materially altered of late. In the examination of the Bengal Fund in 1871, it is stated, page 67:—

"11. Of course we do not mean "that the Managers represented the "claim otherwise than with the most "perfect fairness. We simply state "the above as what appears to us to "be the real nature of the question "involved, and give it as our opinion "that the claim should not have been "granted on which it was put, "namely, that the Fund *was entitled* "to it under the conditions of their "connection with Government."

But in 1875 the Government description ran as follows:—

REMARKS.

The principle was that we were *entitled* to the transfer. This was admitted by two Governments of India and two Secretaries of State. This is *primâ facie* proof of the claim being well founded.

"15. The same considerations reconcile us to the transfer of Rs 8,95,744 from the unprivileged to the privileged fund, with effect from the 30th April 1862, which is described and criticised in the 6th article of the examination. The demand for this transfer was not made upon any well-founded principle, and the amount the transfer of which was sought represented no complete liability.

On the first of January 1850, there were no *two divisions of the Fund:* the new rules only came into force from that date, so that this assertion is wholly without foundation. The only branch of the fund then existing was the ordinary, or as it is called in the text "the privileged." Again, the amount does not represent the liabilities on the 1st of January 1850 at all; but on the 30th of April of that year. The Rs. 8,95,744 represented the actual *deficit* on the 30th of April. The principle in the text that a person who has incurred a debt of nine lakhs has incurred no "*complete liability*" is somewhat novel.

"But only the excess of one part of the liabilities of the Fund on the 1st January 1850 over one part of the assets.

No doubt the "burden" was, as asserted, much greater; but Government lost nothing: it gained three lakhs, see paragraph 125. It does not clearly appear how, as intimated in the text, that though the service undertook a "burden," Rs. 8,95,744 of the *burden* represented no "complete liability."

"The burden assumed by the then existing members of the Service, and especially the younger ones, on the 1st January 1850, for themselves and their successors, in respect to the families of those who had preceded them, far exceeded the sum of which they sought the transfer.

"And the whole transaction shows again, how little the real character of the funds and of the problems arising in the course of their management was at that time understood, either by the Service or the Government, or even by the Actuary. At the same time we have not much doubt that rough justice was done by the transfer.

We got no "special assistance." There was nothing "special" about it, unless the interest we have received since 1829 is special also.

"28. The whole burden of the deficit due to the mismanagement of the Bengal fund till 1850 has fallen upon the members of the Bengal Service of 1850 and those appointed since that date. In order to extinguish this deficit, additional taxation was freely accepted by the Service, and has been uncomplainingly borne;

We got no "assistance" at all, unless the Government of India means by assistance what is paid and claimed as of right.

We did not get even our right as we pointed out. There was a sum of Rs. 3,00,798, a sum which the Government had profited by the "laches of the Fund," and this change was admitted by paying the Rs. 8,95,744. See para. 125.

The "assistance" was not granted in 1862, but in 1867; not by Sir Charles Wood, but by Sir Stafford Northcote. The former admitted the claim subject to the amount being determined, the latter paid it.

"but heavy as these contributions are, "they would evidently have been in- "sufficient to produce equilibrium "but for the special assistance granted "by Sir Charles Wood in 1862, in the "shape of an addition to the privi- "leged capital, and by Sir Stafford "Northcote in 1867, in the shape of "5 per cent. interest on the unprivi- "leged funds and an addition to the "rate of donation-exchange.

"29. There may be reason to think "that these considerable concessions "were made without a full appreciation "of the circumstances of the fund, "or of the limited obligations in respect thereto, accepted by the Government. However this may be, "notwithstanding this substantial assistance, the continued heavy contributions of the members, the unauthorized appropriation of donation-exchange on the remittance of "the unprivileged funds, and, according to the definition now settled, the "equally unauthorized appropriation "of considerable sums of donation- "interest, the fund had not even on "the 31st March 1871 completely "emerged from a condition of insolvency."

"Donation-exchange." A newly-coined compound. This expression is calculated to mislead.

128. The transfer was, as I have shown above, claimed on the ground that we were entitled to it. It was acquiesced in by two Governors-General and two Secretaries of State, and admitted by the Government of India in 1871 to have been granted for the reasons on which it was claimed. It can hardly be conceived that in 1875 Government would come forward and describe the transaction as a concession made without a full appreciation of the limited obligation accepted by Government, if it had known of the previous correspondence or studied Mr. Westland's examination. This again leads to the conclusion that the present despatch was written with an imperfect knowledge of previous events, and the conclusion becomes more probable when we consider that though the correspondence on this subject lasted for more than 5 years, no *documents connected with this transaction can be found in the collection of original papers relating to the Bengal Fund which have been printed by Government for the information of the public and the Secretary of State.* And yet no transaction in the history of the Fund is more important, or more clearly disposes of the voluntary and gratuitous concession theory.

129. In 1851 the Managers directed that all pensions should be liquidated, one-third from the addition branch, and two-thirds from the ordinary branch; and that establishment and miscellaneous charges should be debited to the latter only. The proper proportion was subsequently found not to be one-third and two-thirds, but 47 and 53 per cent. The Managers, however, did not, to the detriment of the Fund, make any change in the proportion till 1862, when they adopted the latter proportion: since then the proportion has been changed several times, in pursuance of the principle on which the Fund has been managed, viz. that the ordinary or 8 per cent. branch is made to bear a portion of the Fund's liabilities equal to its means, the surplus or deficit being thrown into the additional branch. *The practical effect of this*

proposition is that the Fund does not hoard any of its 8 per cent. capital, and so far it has adopted a course quite different from the Funds at Madras and Bombay. It must be remembered that this form of management is the form most favourable to Government, consistent with the right of the subscribers to have 8 per cent. on the ordinary branch, and has been adopted to avoid any possible objection that Government might raise to *hoarding* the 8 per cent. capital, though strictly within our right, and it seems rather a peculiar way of rewarding the subscribers for their consideration that Government should now turn round and assert that they have no right at all to 8 per cent. on their capital.

130. The right to the Fund to 8 per cent. on the capital of the ordinary branch has, as I have already said, never been denied by any Government up to the present; but in 1865 the question was discussed by the Fund's Actuary, Mr. Browne, who said in his second report, 1866:—

"67. In examining the results which arise under a valuation made upon the "present conditions of the Fund, it seems to me that it will be much clearer and "more correct to consider the ordinary and additional branches as two distinct "Funds, the existing capitals and the subscriptions for each accumulating "separately at different rates of interest, 8 and 4½ per cent.

"68. I assume that in *theory* at least any surplus fund after making "provision for the full liabilities under the 8 per cent. fund would have to be "transferred to 5 per cent. fund, and will bear only that rate of interest, since "we cannot suppose it to be the intention of Government permanently to allow "the high rate of interest on an amount of capital which is more than sufficient "to carry out the original objects for which such donation of extra interest was "granted. This will greatly simplify the examination, because after setting aside "sufficient capital to make the 8 per cent. fund solvent, the deficiency, if any, "will be compared at the two periods wholly in the 4½ per cent. fund."

This view was not accepted by the Managers. The Secretary, Mr. Monteath, said that the question depended for its solution, "not on any intricate calcula-"tion or *theory*, but on a simple question of fact arising out of the constitu-"tion of the additional branch in 1850.

"The members of the Fund then decided to divide its benefits, which they "were perfectly at liberty to do within the limits of their then existing assets, "on which the Government had *guaranteed*, but the extension of the benefits "went beyond this limit, and the Government objected to pay the above-"mentioned rate of interest, or any additional subscriptions which it might be "necessary to levy for that object. Certain additional subscriptions were levied, "and in respect to these the Fund was limited to a lower rate of interest. It was "calculated by the Actuary Mr. Davies that the pension payment ought to be "debited to the additional and ordinary branches in the proportion of 47 and 53 "per cent. The Managers, however, fixed one-third and two-thirds as the pro-"portions, and in doing so gave rise to a very large and unnecessary waste "of the valuable capital of the Fund. In 1862 the proportions originally "suggested by Mr. Davies were restored. These proportions have now become "obsolete and inapplicable, owing to the great subsequent improvement of the "assets of the ordinary branch, resulting principally from the transfer of the "large amount of capital to it from the additional branch.

"Mr. Browne suggested a new proportion, and apparently intends that "proportion to be fixed absolutely and for ever; and considers, if I understand "him rightly, that if the income of the ordinary branch should exceed what "may be required for the payment of that proportion of pensions, the Fund "should give up its claim to 8 per cent. interest thereon. But from what I have "already said regarding the nature of the arrangement in 1850, it will be "evident that the Fund is entitled to 8 per cent. interest, not on the fund "required for defraying a fixed proportion of pension payments, but on the "funds realized from a certain fixed percentage rate of subscription, and that "the lower rate of interest is to be drawn on the subscription realized in addi-"tion to the original subscription rates. If it be shown, as will be the case "ere long, that the present very high rates of additional subscription are not

"required, then let them be reduced or let the benefits be increased; but "let the principle be kept well in view that the Fund is entitled to the higher "rate of interest on the proceeds of the original 2½ per cent. rate of subscrip- "tion."

131. This memorandum was forwarded to Mr. Browne when framing his third report, and referring to it he said that his "own opinion would be that the "8 per cent. interest is only intended to be allowed on such capital as carries out "the original objects of the Fund;" and then added as regards Mr. Monteath's ,—"if this view is correct, and it is clearly understood that whether the "ordinary branch would present a surplus or deficit when valued by the usual "method, it would still bear 8 per cent. interest until it is exhausted, and may "be applied, so far as it is over and above the value of the liabilities under the "old rules, to pay off the relative proportion of liabilities under the new "rules. Mr Monteath's method will no doubt be adopted." And so it was. Mr. Monteath's opinion was drawn from the correspondence; it was the opinion of the Managers in 1850, the Managers in 1866, the Managers in 1870; indeed, no other idea was ever held by the Service or Government, while Mr. Browne's opinion was framed in ignorance of our mutual relations.

I will only refer to a note written by Mr. Monteath in 1870, when Mr. Browne's last report was received. He said:—"I now turn to a consideration "of the question of methods of valuation as discussed in Mr. Browne's report. "It is perhaps wrong to call it a question of methods of valuation, for it is really "one of far greater importance. It is, in fact, a question of principle affecting "largely the position of the Fund.

"6. The main question at issue is whether the Fund is bound down to a "fixed proportion of pensionary charges under the ordinary head (*i.e.*, 53 per "cent. as calculated by Mr. Davies, or 60 per cent. as calculated by Mr Browne), "to which the ordinary assets (*i.e.*, 8 per cent. income) must be adjusted, or "whether it has a certain income on which it is privileged to receive 8 per "cent. interest, and to which the liabilities of the ordinary branch must be "adjusted. I hold to the latter view, and my arguments on the subject, recorded "in my memorandum of the 23rd December 1867, have been quoted *in extenso* "in paragraph 78 of Mr. Browne's report (pages 22 to 24). Mr. Browne adds that "if my view be correct, my method of valuation 'will, no doubt, be adopted.' "The question, as stated in my memorandum above referred to, is one "depending for its solution, not on any intricate calculation or theory, but on a "simple question of fact arising out of the constitution of the Fund in 1850; "and the Managers at the time distinctly accepted my view, and in the present "resolution have again upheld it.

"7. On the one hand, the Fund is entitled to limit the charges on its privi- "leged funds to the amount which they can bear, and it was the non-observance "of this principle which well nigh brought it to ruin between 1850 and 1863. "And on the other hand the Government, which pays the 8 per cent. interest on "the privileged funds, is justified in requiring that these funds shall be charged "with a fair proportion of liabilities. If we charge (as in the period above "referred to) too large a share of liabilities to the privileged funds, we simply "waste our resources, paying away the more valuable capital instead of the less "valuable; and if we charge too small a share of the liabilities to the privileged "funds, we commit an injustice towards Government, for we keep capital on "which it pays 8 per cent. interest in excess of the requirements of the liabili- "ties apportioned to it, holding, in other words, a surplus in the ordinary branch "to cover liabilities in the additional branch, *but not actually using it for that "purpose.* If we hold the privileged funds to cover a corresponding share of "liabilities, and *use them for that purpose,* we act fairly by ourselves and by the "Government; but if we save our privileged capital, discharging only a small "proportion of the liabilities therefrom, but keeping it nevertheless at 8 per "cent. interest as a sort of fictitious offset to deficiencies in the additional branch, "we commit, in my opinion, an injustice towards Government, and an injustice "which would (or at all events might) recoil upon our own heads in the shape of

"a refusal of Government to pay 8 per cent. interest on any money in excess of "that required to meet the limited share of liabilities which we had ourselves "fixed as the proportion debitable to the ordinary branch."

132. On this the Financial Secretary remarked (he was not then Manager, being in Simla):—

"So far as this very valuable minute goes, I agree with every word of it. "I think that the principle of Mr. Monteath's calculations of the value of X "and Y should be most jealously watched and preserved. There is some risk of "its being lost sight of in the wording of the Resolution of the Calcutta Managers. "I think also that, as he proposes, we ought certainly *not* to dispose of any esti- "mated surplus within a margin of 5 per cent., at any rate for some years to "come, until we can more precisely fix our estimates by experience. I would "advise the adoption of the 5 per cent. margin.

"I quite agree to the measures which he proposes as in every respect more "beneficial to the fund than that originally referred to the Actuary.

"But I do distinctly disapprove on principle of the concession of any "privilege to retired members, and indeed of using our surplus to reduce "subscription or revenue at all.

"As the proposition stood, *we were actually going to give up some of our* 8 "*per cent. claims.* Mr. Monteath's modification has eliminated that objection."

133. The matter was taken up by the Government of India in 1871, and discussed at great length. This discussion will be found in Act IV of the Bombay Fund, and amounts to this. The opinion of Mr. Monteath was right, while that of Mr. Browne wrong. In the same year the Government of India opened negociations with the Managers through the Financial Secretary to take over the Fund. It then became necessary to know exactly what Government was prepared to offer, and in a note on the proposal Mr. Monteath said:—

"4. These proposals are, I believe, made with the fullest will and wish to "give to the Service in future (though in a different shape) all the help, both "present and prospective, which would fall to it under a continuance of present "arrangements. The reason assigned for suggesting the change, viz. the "trouble and risk to Government of keeping the needful watch over the "operations of the Fund, is in my opinion one which fairly claims candid "consideration on the part of the Service." And this view was admitted by the Financial Secretary to be correct. Subsequently, in 1873, an estimate was made in the Financial Office (of the Fund's surplus at the end of 1870-71), on the principle advocated by Mr. Monteath, and according to it the pensions should be paid in the ratio of 78 per cent. to Ordinary and 22 per cent. to Additional. This estimate was forwarded to the Managers, and influenced by it they changed the proportions from 60 and 40 to 78 and 22; and in this way they paid away, to the detriment of the Fund, 18 per cent. of the 8 per cent. capital more than they had done previously. Government cannot blow hot and cold to the detriment of the Service. It is now estopped from saying that the Service has no right to 8 per cent. on the capital of the Ordinary branch. In 1871 and 1873 the Financial Department of the Government of India said to the Managers, as plainly as if they used the following words:—"You get and "will get 8 per cent. on the capital and balance of the Ordinary Branch, 5 per cent. "on the Additional Branch, and 2 shillings the rupee exchange on all your "remittances. Either you should allow us to take the Fund over on a guarantee, "or you should pay 78 per cent. of your liabilities to the 8 per cent. branch, "otherwise you will hoard your 8 per cent. capital to the detriment of Govern- "ment;" and the Managers acted on this representation to their loss and to the advantage of Government. Can Government now turn round and say, "You have no right at all to 8 per cent. on the capital?"

134. How, then, is this simple fact dealt with by the present Government? In a footnote to the despatch to the Secretary of State there is the following sentence:—

"The theory upon which this examination was made, and upon which the "Bengal Civil Fund has *for some years* been managed, is that the Government

"donations were granted in subsidy *of certain assets* which might be used as the "Service thought fit."

In the letter to the Fund on the same subject, and bearing the same date as the despatch, the words "some years" have developed into "many years." This rapid growth in the space of a few hours is not explained. The letter runs thus—

"Mr. Westland's examination was made upon the assumption that the "Government had undertaken *during pleasure* to *subsidise certain definite assets*, and "that the assets thus subsidised might be used by the Service to the utmost of "their capacity, but might not be hoarded. This is the theory upon which the "Managers have themselves acted, for *many years*, rejecting the converse theory "for which their Actuary, Mr. Samuel Browne, persistently contended."

What justification can there be for either of these assertions? We have not received 8 per cent. for "some years" or "many years," but ever since it was granted, *i.e.*, 1817; we have not received any subsidy on "certain definite assets," but on the indefinite subscriptions of the members of the Service for the time being (*see* paragraph 711).

135. Then, too, there are some important omissions and exaggerations (all in favour of Government, and none in favour of the Fund), which I will now notice. These extracts omit to tell us—

(*a*) That an elementary knowledge of actuarial business renders the idea of Mr. Westland having determined the position of the Fund on the supposition that the subsidy was *during pleasure* an impossibility.

(*b*) That Mr. Westland said (page 25, paragraph 12), in reference to the Bombay Fund, the examination of which is on the same principle as that of our Fund, "on these grounds we accept in the calcula-"tions we have to make the view on which the Fund has all along "been managed, that 8 per cent. is *admitted* on the 2 per cent. "subscriptions all round." And at page 98, paragraph 38 of the examination of the Bengal Fund, he has said, "the Funds are "by their constitution protected against the chief cause of a "necessity for a reserve fund—the *doubtfulness of the rate of interest* "*procurable in future.*"

(*c*) That "Mr. Browne persistently contended" means that as a fact Mr. Browne *twice* said—once in 1867, "we cannot suppose it "to be the intention of Government permanently to allow the high "rate of interest on an amount of capital which is more than suffi-"cient to carry out the original objects for which the donation of "extra interest was granted," and again in 1870—"Yet it is for the "purpose of carrying out the original objects of the Fund that "8 per cent. interest is allowed by the Government on this "capital and only 5 per cent. on that in the Additional Branch."

(*d*) That these opinions of Mr. Browne were admittedly not based on any materials, but, as he said, "in theory," and that Mr. Browne never saw the correspondence regarding the grant of 8 per cent. interest.

(*e*) That Mr. Browne's opinions were as well known to Government as to the Managers.

(*f*) That they have never been acted on by either party, but treated as a dead letter.

(*g*) That they have been repudiated by the Managers, and that this repudiation has been brought to the notice of Government.

(*h*) That in 1871 Government formally repudiated Mr. Browne's opinions in the examination of the Bombay Fund (paragraphs

25, 26), and in the examination of the Bengal Fund (page 109, paragraph 6).

(*i*) That in the same year Government offered to take over our Fund giving us a guarantee that we should receive all help, present and prospective, which would fall to it under a continuance of the *then existing arrangements*, *i.e.*, 8 per cent. on the capital of the Ordinary, 5 per cent. on the capital of the Additional, and exchange at 2*s.* in all our payments.

(*j*) That in 1873, on the representation of the Financial Department, the Managers arranged to spend in future 18 per cent. of our 8 per cent. capital more than in previous years, on the supposition that Mr. Browne's theory had been rejected.

136. In 1872 a dispute arose between the Bombay Fund and the Supreme Government regarding the right of that Fund to 8 per cent. on its accumulations. All attempts to bring about an amicable settlement failed, and the subject was referred to the Secretary of State, who took the opinion of Mr. Browne, already referred to, as he was mentioned by the Government of India as an Actuary to whom a reference might be made. The choice does not seem to have been a happy one. Mr. Browne had already given his opinion on the subject "in theory" in his report on the Bengal Fund, and it seems a pity that the Government of India, being aware of that opinion, should have selected him, or allowed him to be selected, as an arbitrator when he had already committed himself to an opinion in its favour, especially as the only documents he had access to were the examination and a despatch, similar to those under review. Be that as it may, Mr. Browne, as might be expected, adhered to his previous opinion, and the Secretary of State, adopting to a certain extent his views, wrote as follows :—

"17. This valuation for 1st April 1869 shows a surplus of Rs. 24,22,613 "in the 8 per cent. branch, and a deficit of Rs. 16,57,938 in the 4 per cent. "branch; and Mr. Browne justly observes that this is a state of things never "contemplated by the Court of Directors in granting a privileged rate of "interest of 8 per cent. on the balance of subscription for carrying out the "original objects of the Fund, and that there ought to have been a considerable "Fund to meet the liabilities in the 4 per cent. branch.

"18. He therefore proposes that, instead of increasing the members' "subscriptions, with a view to making up the deficit of the 4 per cent. branch, "that branch should be made solvent by a transfer of Rs. 16,57,938 from the "surplus in the 8 per cent. branch; and he is of opinion, with reference to "the nature of the compromise which he has proposed, that the surplus of "Rs. 7,64,675, which will remain in the 8 per cent. branch after such transfer "has been made, should be divided in proportion to the value of the liabilities "in the 8 per cent. and 4 per cent. branches respectively.

"19. On a consideration of all the circumstances, I am disposed to adopt "Mr. Browne's valuation as the basis of a compromise between the Government "and the Fund, and to agree to the proposals which he has made for dividing "the capital between the two branches on the 1st April 1860.

"20. The result of the adjustment is that on that date the capital in the "8 per cent. branch will be Rs. 35,69,555, and that in the 4 per cent. branch "Rs. 19,52,550, instead of Rs. 47,57,279 in the 8 per cent. branch and Rs. 151 "in the 4 per cent. branch, as shown in the accounts of the Fund on the same "date.

"21. I also think it would be well to act upon his proposal that no "addition should be made to the benefits from 1869, but that the accounts "should be readjusted from that date, as suggested in paragraph 320 of his "report, and that a new valuation should be made from 1st April 1874 by the "tables used for the valuation of 1869. If any surplus exists after the "valuation for the current year, it would be allotted either by increasing the "benefits or reducing the subscriptions.

"22. Quinquennial valuations and adjustments must also be made in "future, so as to avoid the accumulation of surplus in each branch of the Fund."

137. The condition of the Bombay Fund in nowise resembles that of our Fund. The Bombay men have a surplus in their 8 per cent. branch, a deficit in their 4 per cent.; we, on the contrary, have not a rupee surplus in our 8 per cent. branch. In effect the Secretary of State says you have hoarded your 8 per cent. capital, and you have no capital at 4 per cent.; I offer you as the basis of a *compromise* certain conditions. This is not, however, the view which the Government of India gave of this despatch to the Bengal members, who had never seen it or known of its existence. The Government said:—

"4. In referring last year for actuarial examination certain questions about "the condition of the Bombay Civil Fund, the Secretary of State definitely "laid down this converse theory, *and in effect decided that the Government subsidy "during pleasure must be measured by the original benefits of the Fund—in other words "by the liabilities of the Fund as originally constituted. The Secretary of State has, in "short, decided that the Government subsidy attaches to assets enough to cover these "original liabilities and to nothing more.* The Government of India has fully "acquiesced in this decision, and the principle of it must be held to be "definitely established."

It seems unfortunate that such errors as I have pointed out should disfigure the later utterances of the Government of India. Even the Secretary of State's despatch is not referred to correctly. As a fact:—

(*a*) The Secretary of State did not "decide anything." He was, as he says, "disposed to adopt Mr. Browne's valuation as the "basis of a compromise."

(*b*) He did not say anything of a "subsidy *during pleasure*;" neither these words, nor anything like them, occur in the despatch.

138. There is still one point remaining of no little importance. The Bengal Fund was at its beginning a voluntary association. In 1812 the Directors declined to bind their servants to subscribe, but in 1823 they determined on making it "a condition with all their Civil Servants on their first appointment "as writers that they should become subscribers to the Fund, and continue their "subscriptions throughout their service." The avowed reason for this change was to ensure the security of their servants and *afford themselves relief from unnecessary charge.* Since then a stipulation to that effect has been entered in the covenants of every member in India. In the time of the Directors the clause ran as follows:—

(*Lastly.*)—That he, the said A. B., shall and will forthwith upon his arrival at the said presidency of become a subscriber to the two several Funds there, established under the sanction of the said Company—the *one called the Civil Fund*, and the other called the Annuity Fund, and shall and will from time to time so long as he shall continue in the service of the said Company, conform to all the rules and regulations which shall be in force in relation to such two funds respectively; and shall and will pay such subscriptions as under such rules and regulations shall from time to time become due or payable by him, the said A. B., or, at the option of the said Company Secretary of State in Council or of the Governor in Council of the said Presidency of ——, allow the amount of such subscription to be deducted out of any money due or payable by the said Company Government to him, the said A. B.

And since 1860, in the following words:—

9th.—That he shall and will forthwith upon his arrival at the said presidency become a subscriber to the *Civil Fund* and the Annuity Fund there, and shall *and will from time to time, so long as he shall continue in the said service, conform to all the rules and regulations which shall be in force in relation to the said Funds respectively, and will pay such subscriptions as under such rules and regulations shall from time to time become due or payable by him*, or, at the option of the said Secretary of State in Council, or of the Governor in Council of the said presidency, allow the amount of such subscriptions to be deducted out of any money due or payable by the Government to him.

139. These are very onerous covenants. They bind the members of the Service to subscribe to the Fund, conform to all its rules, and, on refusal, to allow Government to deduct the subscriptions from their salaries. Then let us bear in mind the circumstances under which young men enter into them. They know nothing of the nature of the Fund or Fund matters (the knowledge is all on the other side) beyond what information is accessible to them in the public papers of England; and in them they find that in 1832 the Directors represented to Parliament that their assistance to this Fund as—

"*Direct aid*—A donation of £2,500 per annum paid in England.

"*Indirect aid*—A high rate of interest (8 per cent.) upon the balance and "the advantage of a remittance from India by bills upon the "court to the extent of £12,000 per annum at the favourable "rate of 2*s.* 1*d.* the rupee."

Tracing the Fund further on, they find that in 1852 the Directors published similar information for the people through Parliament, and described their contributions as equivalents to interest on the *capital and balances* at 8 per cent., exchange at 1*s.* 11*d.*, and the difference to make it up to 2*s.* 4*d.* the sicca rupee, and that in 1862 the Secretary of State gave similar declarations of his contributions to the Fund. The members of the Service have performed the terms of their convenant: they make no efforts to get rid of them. It is the Government that, having bound them down to subscribe to the Fund as "established under the sanction of the Company," and led them to believe that it would fulfil its promises, now wishes to turn round and repudiate obligations which have been met for half a century, on the grounds that it has only been "through misconception on the part of the Auditors and the "Government," and "long continued oversight, misunderstanding, or negli-"gence" of previous Governments that they "have been allowed hitherto to "usurp these privileges." What the misconception was is not stated, and how any misconception can exist on the part of a person who believes that he is entitled to a certain thing and gets it with the full consent of the giver is not apparent. Then as to authority: there are the statements of the Directors, the declarations of the Secretary of State, the admissions of the Government of India—what other authority can be referred to I do not know.

It must be remembered that these matters have never been laid before the Secretary of State; that the materials on which he has based his opinion, such as the present despatch, are imperfect; and there is no reason to believe that he will sanction the present proposals as soon as he becomes aware of the true state of affairs. Government is bound to fulfil its declarations; it cannot tell us one thing in England and another in India.

140. The relations of the Fund to Government may be summed up in the following propositions:—

THE 8 PER CENT. RATE OF INTEREST.

1. That in 1813 the members of the Madras Service, having suffered from fluctuations in the rate of exchange and interest, wished to place their Fund in such a position as would render it independent of such fluctuations, and offered the Directors a *perpetual* loan, subject to be called in for Fund claims, on condition of being allowed a fixed rate of interest and a fixed rate of exchange; that this proposition was accepted by the Directors, who agreed to give 8 per cent. interest on the entire capital of the Fund.

2. That in 1817 the members of the Bombay Service, for the same reasons, asked for 8 per cent. on the accumulating capital of the Fund, and it was granted for the same considerations as in the case of the Madras Fund.

This transaction is not referred to *at all* in the present despatches, or Bombay examination. It is mentioned in the Bengal examination; but the correspondence is quoted incorrectly.

3. That since the consideration must ordinarily be co-extensive with the promise, the promise was for a *perpetual rate of interest at* 8 *per cent.*

4. That this was the interpretation put upon it—

(*a*) By the members of the Bombay Service and *Bombay Government* in 1821 (B. P. 9).

This is not referred to in any documents placed before the Secretary of State.

(*b*) By the Directors in 1824.

This is not referred to in the Government documents.

(*c*) By the members of the Bengal Service in 1826.

This is not mentioned in the despatch or examination, on which alone the Secretary of State will decide.

(*d*) By the *Directors* in 1842 and 1850.

There is no mention of this in the despatches or examination sent to the Secretary of State.

5. That such a contract can neither be set aside by any court or terminated by either party after notice.

6. That the Directors in 1829, with full knowledge of the interpretation put upon the arrangement by the Bombay Government, and that the members of the Bengal Service looked on the transaction with the members of the Madras and Bombay Services as a *guarantee* of 8 per cent. interest, gave them 8 per cent. interest for the same consideration on the capital of the Fund, and *for the future.*

This does not appear in the papers forwarded to the Secretary of State; on the contrary a despatch is referred to which does not exist in support of the theory of voluntary and gratuitous concession.

7. That in pursuance of this agreement for a *perpetual* loan subsequent subscriptions were received and acknowledged by Government by 8 per cent. *non-transferable* promissory notes, with half-yearly rests, and in any case Government is estopped from denying the nature of the agreement.

This does not appear in the papers forwarded to the Secretary of State, but a despatch is referred to, which does not exist, as denoting an arrangement which did not come into force till 4 years later, and then only in part.

8. That in 1832 the Directors published, through Parliament, that their contribution amounted to 8 per cent. on the capital of the Fund. The manner of entering it in account was then changed.

This despatch is now interpreted by Government in a manner repudiated by the Directors in 1852, 1854, 1856, by the Secretary of State, in 1859, 1862, 1866, the Government of India, up to 1875.

9. That from 1832 to 1850 the Fund received 8 per cent. in the manner ordered by the Directors.

10. That in 1850 the Managers, for the convenience of Government, agreed to change the nature of the accounts on *the distinct understanding that they would lose nothing in interest.*

This is not mentioned in the document laid before the Secretary of State; on the contrary, the transaction is incorrectly described to the prejudice of the Fund.

11. That in 1852 the Directors informed the people of England, through Parliament, that the Government contribution was 8 per cent. on the capital of the Fund.

This is not mentioned in the papers forwarded to the Secretary of State.

12. That in the same year the Directors declared that the interpretation now for the first time placed on the despatch of 1832 was erroneous, and that they were "*pledged*" to grant us 8 per cent. on the capital of our Fund.

This also is omitted in the papers forwarded to the Secretary of State.

13. That in 1854 the Directors admitted that the rate of 8 per cent. on our capital was the *fixed rate*, and, as such, directed we should receive this amount *half-yearly* in future.

This also is omitted in the papers sent to the Secretary of State, and is not printed in the collection of papers connected with the Fund printed by the Government of India.

14. That in consequence of the despatch referred to above, Government in 1854 issued a resolution directing that 8 per cent. interest be continued to be paid to the Fund half-yearly.

This also is not referred to in the papers forwarded to the Secretary of State, nor is it printed in the Government collection.

15. That in short the whole question now raised as to our right to 8 per cent. on our capital was raised and decided by the Directors in our favour in 1852 and 1854 as aforesaid.

All reference to this has been omitted in the papers, &c., forwarded to the Secretary of State.

16. That in December 1854 the Managers forwarded to the Directors two reports of Messrs. Nelson and Browne, *openly based on the assumption* that the Fund would get 8 per cent. on the capital of the original branch so long as the Fund lasted, and that the Directors did not deny this, but on the contrary approved of the reports and requested the Service to conform to the suggestions contained in them.

This has not been mentioned in the documents sent to the Secretary of State.

17. That in 1856 the Managers forwarded a report on the Fund in which the right to 8 per cent. interest on the ordinary capital was openly assumed, and this report was approved of by the Directors.

This is not mentioned in the papers forwarded to the Secretary of State; on the contrary the transaction is erroneously described in the despatch.

18. That in 1859 the Government of India in its *Gazette* described our interest on the original capital as "the fixed rate of 8 per cent. allowed under "the original rules," which "could be fairly claimed by the Fund," and which "we were strictly entitled to."

No reference has been made to this in the papers forwarded to the Secretary of State.

19. That in 1860 the whole correspondence connected with the subject referred to in the last proposition was referred to the Secretary of State, who declared that henceforth "donations are to be paid to make up the interest to "8 per cent." on the "correct balances of the Fund."

No reference to this has been made in the papers forwarded to the Secretary of State.

20. That in 1862 the Secretary of State declared "that Her Majesty's "Government have no intention of withdrawing the aid which has been "hitherto granted," and the aid was then 8 per cent. on the original branch of the Fund.

21. That the Government of India has interpreted the Secretary of State's answer as meaning that he had no doubt of his right to withdraw all assisatnce if he so chose.

22. That such an interpretation is inconsistent with the explanation given of this despatch in the Secretary of State's despatch of 1866.

All reference to this explanatory despatch of 1866 is omitted in the papers forwarded to the Secretary of State.

23. That in 1862 the Secretary of State made certain proposals in lieu of the existing advantages, and that in September of the same year the Managers in answering him described the condition of the fund as follows:—"The "Managers presume that in indicating the interest (5 per cent.) to be allowed "under the suggested arrangements 'on the balance of the Funds,' reference "is made by the Secretary of State to the whole balance of the Fund without any

" distinction between the classes of funds known as 'Ordinary' and 'Additional' " respectively. On both classes of funds the Government now allows 4 per " cent. interest, but on the capital termed 'Ordinary' * * * * the Government " also allows an annual donation calculated at 4 per cent."

Nothing of this in the despatch.

24. That in the same year the Managers *claimed as of right* interest at 8 per cent. on the " Ordinary" branch, now called " privileged;" and on that ground asked for a transfer of Rs. 8,95,774 from the 4 per cent. to the 8 per cent. branch.

Nothing of this is mentioned in the despatch, nor is this letter printed in the Government Collection.

25. That in 1862 the Secretary of State admitted the justness of the claim *as stated*, and ordered that the amount when properly determined should be transfered.

Not referred to in the Government papers.

26. That in 1863 the Managers informed Government that their right to Rs. 8,95,774 rested on the fact that the ordinary fund *was entitled to* 8 *per cent. interest* independent of whether we used it or not.

All reference to these facts is omitted in the despatch, nor are the papers printed in the Government Collection.

27. That this is not the only time in which the claim to 8 per cent. on the capital of the Fund, whether it was used or hoarded, has been admitted by the Home Government.

All reference to this is omitted in the papers sent to the Secretary of State.

28. That in 1838 the Madras Managers claimed the same right, and as follows:—" The Fund has at present a large surplus income; and if this, instead " of being applied to the purposes now in view, *were allowed to go on accumulating* " *indefinitively at compound interest*, it cannot be doubted that the charge of " interest would grow to be heavier than what it will be rendered by the addi- " tional contributions which it is intended to raise as aids towards the support " of an additional expenditure."

No reference to this right to hoard, and declaration of having hoarded 8 per cent. capital is made in the documents referred to the Secretary of State: the right was not denied by the Directors.

29. That in 1840 the Madras Managers made a similar declaration with reference to the 8 per cent. capital, and no notice was taken of it by the Directors.

There is no mention of this in the papers transmitted to the Secretary of State.

30. That in 1865 the transfer of the Rs. 8,95,744 was again claimed on the same basis.

No reference is made to this in the despatch, nor are the documents printed in the Government Collection.

31. That in 1867 the Secretary of State, with full knowledge of the claim and the foundation on which it rested, directed the transfer of the Rs. 8,95,744.

No reference is made to this in the despatch sent to the Secretary of State; on the contrary the transaction is misrepresented. This document is not printed in the Government Collection.

32. That, in short, a correspondence extending from 1862 to 1867, and as decisive of the right of the Fund to 8 per cent. on the capital as the despatch of 1854, has, like the latter, neither been printed by Government in the collection of original papers, nor placed before the Secretary of State.

33. That in 1865 the Managers declined to adopt at once the offer proposed by the Secretary of State, and asked to postpone its acceptance on the

ground that "*as the aid given by Government is dependent on the balance of the "Fund, which is steadily increasing under the high rates of subscription since* 1850, *the "Fund would be placed at a disadvantage if an annual donation were now fixed on the "average of the indirect aid for the last five years.*"

No reference to this claim to 8 per cent. on the capital and balance of the Fund is made in the correspondence sent to the Secretary of State.

34. That in 1867 the Secretary of State answered this *claim described in the words of the Managers*, and granted the time asked for.

No reference to this is made in the papers sent to the Secretary of State.

35. That in 1871 the Government of India declared its "fullest will and "wish to give to the Service in future (though in a different shape,) all the help, "both present and prospective, which would fall to it under a continuance of the "present arrangements," and among them the 8 per cent.

No reference to this has been made in any paper sent to the Secretary of State.

36. That in 1871 the Government of India made an examination of the Bombay Fund, in which our right to 8 per cent. interest on the ordinary capital was admitted.

37. That in 1872 it made an examination of our Fund based on the assumption of 8 per cent. being paid to us so long as the Fund lasted, and in it our right to the 8 per cent. was admitted.

This is referred to but incorrectly in the despatch to the Secretary of State.

38. That in 1873 the Government of India made a calculation on the supposition that we were entitled to 8 per cent. on the original branch of our Fund until the death of the last subscriber and pensioner, and the Managers in that belief arranged to spend in future 18 per cent. more of their 8 per cent. capital to the advantage of Government.

This transaction has not been mentioned or explained to the Secretary of State.

39. That, in short, though Government is aware that owing to its calculations and the representations of its officers in 1873 the Managers made arrangements not to hoard any of the 8 per cent. capital, it has omitted to inform the Secretary of State and now wishes him to take from the Fund about 25 lakhs more in ignorance of that transaction.

40. That, in short, the voluntary and gratuitous concession theory with its nomenclature now put forward by the Government of India dates from some time between 1873 and 1876, and apparently in September 1875.

THE 5 PER CENT. RATE OF INTEREST.

1. That in 1850 the Directors sanctioned the changes which were made, and offered 4 per cent. on the "Additional" branch; but this was not accepted by the Managers, who realized more than 4½ per cent. up to 1865.

2. That in 1865 the Managers pointed out to the Secretary of State that, measured by subscriptions, the Government contributions to the Bengal Fund were one-sixth of those to Bombay and Madras, and asked the Secretary to give 5 per cent. as a fixed rate, and that in 1867 the Secretary of State sanctioned the proceeds being placed in a book account with Government at 5 per cent. interest.

3. That since that date the Managers have made all their calculations and arrangements, and paid away money on the faith of the promise given by the Secretary of State.

This has not been brought to the notice of the Secretary of State.

4. That in 1871 the Government of India offered to take over the Fund and guarantee us the value of the 5 per cent. interest, present, past, and future.

This has not been mentioned by the Government in the papers forwarded to the Secretary of State.

5. That in 1872 the Government of India prepared its examination on the basis that we should receive 5 per cent. so long as the Fund lasted.

6. That in 1873 the Government of India made certain calculations on the assumption that we should receive this five per cent. so long as the Fund lasted, and induced by this we agreed to increase by 18 per cent. our expenditure of 8 per cent. capital to the benefit of Government.

This has not been brought to the notice of the Secretary of State.

7. That with full knowledge of this transaction the Government of India now wishes to turn round and assert that we have no right to 5 per cent. on the capital of the Additional Fund.

8. That apart from the question of good faith, Government is estopped from denying the truth of its assertions, express and implied, of 1871 and 1873.

EXCHANGE.

1. That in 1829 the Managers' home agents made an effort to obtain advances from the Directors by bills drawn on the Managers at the Madras rate of 2*s.* 4*d.* the sicca rupee.

Not referred to in the papers.

2. That in 1830 the Managers in this country addressed the Directors asking that either the Directors would undertake payment of the home charges, or grant advance in the manner followed in connection with the Madras Fund.

3. That in 1831 the Directors, to prevent delay and uncertainty, &c., agreed to make advance for Fund purposes upon bills drawn on the Managers, not at 2*s.* 4*d.*, but 2*s.* 1*d.* the sicca rupee, and bearing 4 per cent. interest till the date of repayment.

Not referred to in the papers.

4. That in 1832 the arrangement was changed to bills at the same rate repayable in India at 12 months.

5. That in the arrangement of 1832, though the Directors did not stipulate for interest as they had done in 1831, yet the Government of India continued to charge us 4 per cent. interest, and consequently if, as Government now asserts, no claims founded on *prescription* are admissible, we shall receive several lakhs of rupees for the past, and be saved 4 per cent. on all our future expenditure.

This has not been brought to the notice of the Secretary of State.

6. That the exchange continued up to 1850 at 2*s.* 1*d.* the sicca rupee.

7. That in that year when the Fund was extended and the Directors refused to give more than 4 per cent. on the additional subscriptions, they raised no objection to the additional funds being disbursed at the same exchange of 2*s.* 1*d.* the sicca rupee.

This has not been made known to the Secretary of State.

8. That in 1852 the Directors published a return to Parliament showing they gave assistance by exchange on all the disbursements of the Fund.

This has not been mentioned in the papers sent to the Secretary of State.

9. That in 1850 the Managers forwarded two reports on the Fund by Messrs. Neison and Browne, openly based on the assumption that the exchange in the "Ordinary" and "Additional" branches was the *same*, and the Directors approved of these reports,

This is not mentioned in the papers sent to the Secretary of State.

10. That in 1856 the Managers reported on the Fund to the Directors and said :—

"23. There is, however, another consideration which has not yet been "taken into account, owing to a desire to present the estimates, as nearly as "practicable, in the form in which they were made by the Actuaries, but which

"it is necessary to allow for in forming a correct estimate of the contingent "liabilities of the Fund. The consideration alluded to is that of the *rate of* "*exchange*. In the reports of the Actuaries, and at paragraph 9 of this letter, "the conversion of sterling money into Company's rupees has been made at "the exchange of 1*s*. 11*d*. per Company's rupee. *The correct rate at which the* "*payments of the Fund are made is* 2*s*. 1*d*. *the sicca rupee, which is nearly equivalent* "*to* 1*s*. 11½*d*. per Company's rupee." And this claim to exchange at 2*s*. 1*d*. on all disbursements was not denied; on the contrary the report and its calculations were approved of.

No mention of this appears in the papers forwarded to the Secretary of State, though decisive of the present claim.

11. That in 1862 the Secretary of State declared "that Her Majesty's "Government have no intention of withdrawing the aid which has been hitherto "granted."

This has been misinterpreted by the Government of India in the despatch.

12. That in 1865 the Managers forwarded to Government a report of Mr. Browne, openly based on the assumption that the exchange on all the Fund's expenditure would continue to be 2*s*. 1*d* per sicca rupee, and that the Secretary of State, acquiescing in the calculations based on this assumption, directed the transfer of nearly nine lakhs to the 8 per cent. branch.

This has not been referred to in the papers sent to the Secretary of State.

13. That in 1867 the Secretary of State allowed us, on account of the smallness of his contribution to our Fund in comparison to that given to Bombay and Madras, exchange at 2*s*. the rupee on all our remittances.

14. That in 1871 the Government of India offered to take over our Fund and guarantee us the then existing privileges, and among them exchange at 2*s*. the rupee.

This has been omitted in the papers forwarded to the Secretary of State.

15. That in 1873 the Government of India calculated the position of our Fund on the basis that we should receive exchange at 2*s*. per rupee on all our remittances, and on that basis we agreed to spend 18 per cent. more of our 8 per cent. capital than previously.

This has not been mentioned in the papers sent to the Secretary of State.

16. That Government having made us covenant to subscribe to the Civil Fund, is bound to fulfil all declarations made by it, especially since acting on the faith of these declarations the Managers have made large disbursements and promised to make more, and is estopped from denying the truth of any such declarations.

141. These are the more important points in the dispute between us and the Government of India. It cannot be possible that the Secretary of State will endorse the views of the Government when the subject is properly placed before him, and it is to secure this object that all our efforts should be directed.

J. O'KINEALY,

Officiating Secretary.

Regr. No 11467—500—12-12-76.